



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 18, 2010

Ms. Leticia Garza
City Clerk
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR2010-02470

Dear Ms. Garza:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 370681 (PIR #1528).

The City of Baytown (the "city") received a request for all public information requests received by e-mail and processed by a named individual during a specified time period. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.137, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the

¹Although you seek to withhold a social security number under section 552.148 of the Government Code, we understand you to raise section 552.147 of the Government Code, as that is the proper exception for the substance of your argument.

applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we find that none of the submitted information is highly intimate or embarrassing and not of legitimate public concern. Consequently, the city may not withhold any of the submitted information under section 552.101 of the Government Code and common-law privacy.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a), (b). The e-mail addresses at issue are not of a type specifically excluded by section 552.137(c). *See id.* § 552.137(c). Therefore, the city must withhold the e-mail addresses you have highlighted in pink under section 552.137 of the Government Code, unless the owners of the e-mail addresses consent to their release.²

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). Accordingly, the city may withhold the social security number you have highlighted in yellow under section 552.147 of the Government Code.³

In summary, (1) the city must withhold the e-mail addresses you have highlighted in pink under section 552.137 of the Government Code, unless the owners of the e-mail addresses consent to their release; and (2) the city may withhold the social security number you have highlighted in yellow under section 552.147 of the Government Code. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

³We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 370681

Enc. Submitted documents

c: Requestor
(w/o enclosures)