



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 28, 2010

Ms. Julia Gannaway
Lynn, Pham & Ross, L.L.P.
306 West Broadway Avenue
Fort Worth, Texas 76104

OR2010-11337

Dear Ms. Gannaway:

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# 388664.

The City of Alice (the "city"), which you represent, received a request for all records pertaining to a named individual during a specified period of time, including forty nine specified incident reports. You state you will release a portion of the requested information. You state you will redact social security numbers under section 552.147(b) of the Government Code.¹ You claim that a portion of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication

¹Section 552.147(b) 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.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and 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. 540 S.W.2d at 683. This office has also concluded that public disclosure of an individual's home address and telephone number are not an invasion of privacy. See Open Records Decision No. 554 at 3 (1990); see also Open Records Decision No. 455 at 7 (1987) (home addresses and telephone numbers do not qualify as "intimate aspects of human affairs"). Moreover, both this office and the Third Court of Appeals have determined that dates of birth are not highly intimate or embarrassing information. See *Tex. Comptroller of Public Accounts v. Attorney Gen. of Tex.*, 244 S.W.3d 629 (Tex. App.—2008, pet. granted) ("We hold that date-of-birth information is not confidential[.]"); see also Attorney General Opinion MW-283 (1980) (public employee's date of birth not protected under privacy); ORD 455 at 7 (birth dates are not protected by privacy).

You claim the addresses, telephone numbers, and date of birth you have are marked are confidential pursuant to common-law privacy. Upon review, we find none of the information you seek to withhold is highly intimate or embarrassing or not of legitimate public concern. Accordingly, none of the information you have marked in the submitted reports may be withheld under section 552.101 in conjunction with common-law privacy.

You have marked information that you state is subject to section 552.130 of the Government Code, and will be redacted pursuant to Open Records Decision No. 684 (2009). Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Open Records Decision No. 684 authorizes the withholding of ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. We note that section 552.130 protects personal privacy. In this instance, the requestor is one of the individuals whose privacy interests are implicated. Thus, the requestor has a right of access to his own motor vehicle record information and the city may not withhold this information under section 552.130. See *id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, solely on grounds that information is considered confidential by privacy principles). Accordingly, we agree that, with the exception of the requestor's motor vehicle information which must be released, the city may withhold the Texas driver's license and license plate numbers you have marked pursuant to Open Records Decision No. 684 without seeking a decision from our office. However, we note that the issuing state and class of the Texas driver's licenses you have marked are not subject to Open Records Decision No. 684 and may not be redacted without requesting an attorney general decision. We find section 552.130 of the Government Code is applicable to the driver's

license class information we have marked. However, the driver's license issuing state information you have marked does not constitute motor vehicle record information for purposes of section 552.130. Accordingly, the city must withhold the Texas driver's license class information we have marked under section 552.130 of the Government Code.

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.

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,



Lauren J. Holmsley
Assistant Attorney General
Open Records Division

LJH/jb

Ref: ID# 388664

Enc. Submitted documents

c: Requestor
(w/o enclosures)