



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 28, 2011

Ms. Jenny Gravley
For City of Euless
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2011-19038

Dear Ms. Gravley:

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# 440563.

The Euless Police Department (the "department"), which you represent, received a request for several specified incident reports. You state the department has released some of the requested information to the requestor. We understand the department will redact a Texas license plate number under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ However, this office has not issued the department a previous determination to redact certain other motor vehicle record information you have marked. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate

¹We note Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The type 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. Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). This office has found that some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we agree the information you have marked is highly intimate or embarrassing and not of legitimate public interest. We have marked additional information on that basis. Therefore the department must withhold the information you and we have marked under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure “information [that] relates to (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country; [or] (2) a motor vehicle title or registration issued by an agency of this state or another state or country[.]”² Gov’t Code § 552.130(a)(1), (2). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must withhold the information you and we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in cursive script that reads "Sean Opperman". The signature is written in black ink and is positioned above the typed name.

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 440563

Enc. Submitted documents

c: Requestor
(w/o enclosures)