



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2013

Ms. Andrea D. Russell
Counsel for the City of Euless
Taylor Olson Adkins Sralla Elam LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2013-02120

Dear Ms. Russell:

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# 479603.

The Euless Police Department (the "department"), which you represent, received a request for information pertaining to two specified incidents. You indicate you have released some information to the requestor. You state you have made certain redactions as permitted by sections 552.130(c) and 552.147(b) of the Government Code and Open Records Decision No. 684 (2009).¹ You claim some of the submitted information is 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

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor). 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 an attorney general decision under the Act. *See id.* § 552.147(b). Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision.

Code § 552.101. Section 552.101 encompasses common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate 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 demonstrated. *See 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. This office has found 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. 455 (1987) (information pertaining to prescription drugs, specific illnesses, operations and procedures, and physical disabilities protected from disclosure), 422 (1984), 343 (1982). Upon review, we agree some of the submitted information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information you seek to withhold is highly intimate or embarrassing and of no legitimate public interest. Therefore, none of the remaining information at issue may be withheld under section 552.101 on that basis.

Next, we note some of the remaining information is subject to section 552.130 of the Government Code. Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We find portions of the remaining submitted information, which we have marked, consist of motor vehicle record information. Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

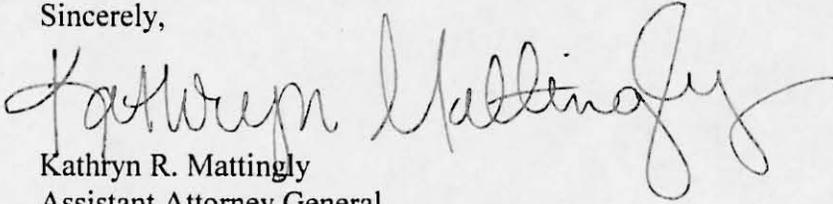
In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. The remaining information must be released to the requestor.²

²We note the information being released contains the requestor's driver's license number, which is generally confidential under section 552.130 of the Government Code and social security number, which may generally be withheld under section 552.147 of the Government Code. However, because sections 552.130 and 552.147 protect personal privacy, the requestor has a right to her own information under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a). As previously noted, section 552.130(c) authorizes a governmental body to redact information protected by section 552.130(a)(1) and section 552.147(b) authorizes a governmental body to redact a living person's social security number without the necessity of requesting a decision under the Act. *See id.* §§ 552.130(c), 552.147(b). Thus, if the department receives another request for this same information from a person who does not have such a right of access, sections 552.130(c) and 552.147(b) of the Government Code authorize the department to redact the requestor's driver's license number and social security number, respectively.

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,

A handwritten signature in cursive script, appearing to read "Kathryn R. Mattingly".

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 479603

Enc. Submitted documents

c: Requestor
(w/o enclosures)