



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 8, 2013

Mr. Gregory A. Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2013-02284

Dear Mr. Alicie:

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# 482850.

The Baytown Police Department (the "department") received requests from two requestors for information related to a traffic accident. You state social security numbers will be redacted from the responsive records pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim other responsive information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>2</sup> Gov't Code § 552.101. This exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly

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<sup>1</sup>We note section 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.

<sup>2</sup>This office will raise section 552.101 on behalf of a governmental body, as this section is a mandatory exception to disclosure. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. Personal financial information related only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 545 (1990), 523 (1989), 373 (1983). We conclude the personal financial information we have marked is confidential under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code exempts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued an agency of this state or another state or country. *See* Gov't Code § 552.130(a)(1)-(2). We conclude the driver's license and motor vehicle information you have marked and the additional driver's license and motor vehicle information we have marked fall within the scope of section 552.130 of the Government Code.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). As this office has determined an insurance policy number is an access device for purposes of section 552.136, we conclude the insurance policy numbers you have marked fall within the scope of section 552.136 of the Government Code.

We note that, like common-law privacy under section 552.101 of the Government Code, sections 552.130 and 552.136 protect personal privacy interests. In this instance, the first requestor represents the insurer of the owner of one of the vehicles involved in the accident, and the second requestor is the owner of the other vehicle involved in the accident. Thus, pursuant to section 552.023 of the Government Code, the first requestor has a right of access to the insured person's personal financial information, motor vehicle information, and insurance policy number, and the second requestor has a right of access to his own personal financial information, motor vehicle information, and insurance policy number.<sup>3</sup> *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). To the extent the requestors have rights of access under section 552.023, the department may not withhold the marked personal financial information under section 552.101 of the Government Code in conjunction with common-law privacy, the marked motor vehicle information under

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<sup>3</sup>Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

section 552.130 of the Government Code, or the marked insurance policy numbers under section 552.136 of the Government Code. Otherwise, the department must withhold the marked personal financial information under section 552.101 and common-law privacy, the marked driver's license and motor vehicle information under section 552.130, and the marked insurance policy numbers under section 552.136. The rest of the submitted 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](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,  


James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/eb

Ref: ID# 482850

Enc: Submitted documents

c: 2 Requestors  
(w/o enclosures)