



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 22, 2013

Ms. LeAnn M. Quinn  
City Secretary  
City of Cedar Park  
450 Cypress Creek Road  
Cedar Park, Texas 78613

OR2013-03057

Dear Ms. Quinn:

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# 479505 (City Ref. No. 13-161).

The City of Cedar Park (the "city") received a request for complaints and records regarding a specified address since 2008. You state you will make some information available to the requestor. You further state you will withhold the marked driver's license numbers under section 552.130(c) of the Government Code, the marked social security numbers under section 552.147(b) of the Government Code, and the marked Texas license plate numbers under Open Records Decision No. 684 (2009).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the

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<sup>1</sup>Section 552.130(c) of the Government Code authorizes a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of requesting a decision from this office. *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 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 is a previous determination to all governmental bodies authorizing them to withhold certain 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.

Government Code. We have considered the exceptions 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. This section encompasses information protected by other statutes, such as section 58.007 of the Family Code, which provides in relevant part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). You contend Exhibit D is confidential under section 58.007(c) of the Family Code. Section 58.007(c) is applicable to records of juvenile delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997. *See id.* § 51.03(a) (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007(c) of Family Code). The juvenile must have been at least ten years old and less than seventeen years of age when the conduct occurred. *See id.* § 51.02(2) (defining "child" for purposes of section 58.007(c) of Family Code). Upon review, we agree Exhibit D involves juvenile delinquent conduct that occurred after September 1, 1997. It does not appear any of the exceptions to confidentiality under section 58.007 apply in this instance. Accordingly, the city must withhold Exhibit D under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code.<sup>2</sup>

Section 552.101 of the Government Code also 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

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<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

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. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. See Open Records Decision Nos. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). Upon review, we agree the information you have marked is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.108 of the Government Code provides, in pertinent part, the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

...

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(2), (b)(2). A governmental body claiming subsections 552.108(a)(2) and 552.108(b)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. See *id.* § 552.301(e)(1)(A). You state Exhibit C relates to a criminal investigation that "ended in a result other than a conviction or deferred adjudication." However, you also provide a letter from the city's police department which states the information in Exhibit C relates to a criminal case that is "inactive, pending further

information and investigation.” Because you have provided this office with contradictory information, we find you have failed to sufficiently demonstrate the applicability of subsection 552.108(a)(2) or subsection 552.108(b)(2) to Exhibit C. Therefore, we conclude the city may not withhold Exhibit C under either subsection 552.108(a)(2) or subsection 552.108(b)(2) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration is excepted from public release. *Id.* § 552.130(a)(2). Upon review, we find the city must withhold the vehicle identification numbers and the license plate year you have marked, and the additional motor vehicle record information we have marked, under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code states “[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 also id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device number for purposes of section 552.136. Accordingly, the city must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the city must withhold 1) Exhibit D under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code, 2) the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy, 3) the information you and we have marked under section 552.130 of the Government Code, and 4) the information you have marked under section 552.136 of the Government Code. The remaining information must be released.<sup>3</sup>

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.

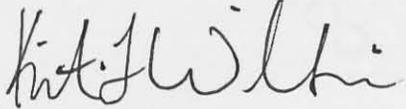
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>3</sup>We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). If the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

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 black ink, appearing to read "Kristi L. Wilkins". The signature is written in a cursive style with a large initial "K".

Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/ag

Ref: ID# 479505

Enc. Submitted documents

c: Requestor  
(w/o enclosures)