



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 2, 2013

Mr. Brent A. Money
Counsel for City of Greenville
Scott, Money & Ray, P.L.L.C.
P.O. Box 1353
Greenville, Texas 75403-1353

OR2013-05248

Dear Mr. Money:

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# 483097.

The City of Greenville (the "city"), which you represent, received a request for any information relating to a motor vehicle accident involving a specified person on January 1, 2013. You claim 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 Code § 552.101. This section encompasses the doctrine of 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 highly 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.

We understand you to assert the information at issue is confidential in its entirety pursuant to common-law privacy. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated

that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this case, you have not demonstrated this is a situation in which the information at issue must be withheld in its entirety on the basis of common-law privacy. Therefore, the city may not withhold these records in their entirety under section 552.101 of the Government Code on that basis.

However, you copied the requestor on your brief to this office, which reveals the nature of the incident at issue, and the requestor now knows the nature of these incidents.¹ Therefore, withholding only certain details of these incidents from the requestor would not preserve the privacy interests of the individual at issue. Accordingly, to protect the privacy of the individual to whom the submitted information relates, we determine that the city must withhold the identifying information we have marked in the submitted information under section 552.101 in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country.² *See* Gov't Code § 552.130(a)(1)-(2). We conclude the city must generally withhold the motor vehicle information we have marked under section 552.130 of the Government Code.

We note, however, the requestor in this instance represents the insurance provider for one of the individuals listed in the submitted information. As such, the requestor, if acting as the individual's authorized representative, has a right of access to his insured's motor vehicle record information. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or individual's authorized representative asks governmental body to provide information concerning that individual). Thus, if the requestor has a right of access under section 552.023 to the insured's motor vehicle record information, the city must release the insured's information we have marked to the requestor. To the extent the requestor does not have a right of access under section 552.023, the city must withhold the marked motor vehicle record information under section 552.130 of the Government Code.

¹In the future, the city should redact such information from its brief before sending a copy to the requestor.

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).

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the requestor does not have a right of access under section 552.023, the city must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The remaining information must be released.³

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/dls

Ref: ID# 483097

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As discussed above, the requestor may have a right of access to the Texas license plate number under section 552.023 of the Government Code. See Gov't Code § 552.023(a), ORD 481. We note Open Records Decision No. 684 (2009) is a previous determination authorizing all governmental bodies to withhold specific categories of information without the necessity of requesting an attorney general decision, including Texas license plate numbers under section 552.130(a)(2) of the Government Code. Thus, if the city receives another request for this same information from a person who would not have a right of access, Open Records Decision No. 684 authorizes the city to redact the Texas license plate number without the necessity of requesting a decision from this office.