



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 4, 2013

Ms. Samantha Dyal  
Counsel for the City of Schertz  
Norton Rose Fulbright L.L.P.  
300 Convent Street, Suite 2100  
San Antonio, Texas 78205-3792

OR2013-15497

Dear Ms. Dyal:

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# 499007.

The Schertz Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also 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 satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the information must be withheld in its entirety to protect the individual's privacy.

In this instance, although you seek to withhold the submitted information in its entirety on the basis of common-law privacy, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of this information must be withheld on that basis. However, upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate how any of the remaining information is highly intimate or embarrassing and not of legitimate concern to the public. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

You raise section 552.130 of the Government Code for portions of the remaining information. Section 552.130(a)(2) of the Government Code excepts from disclosure information related to “a motor vehicle title or registration issued by an agency of this state or another state or country[.]” Gov’t Code § 552.130(a)(2). We note section 552.130 protects personal privacy. Thus, the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *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 asks governmental body to provide her with information concerning herself). Accordingly, none of the motor vehicle record information you have marked may be withheld under section 552.130(a)(2) of the Government Code.

In summary, the department may withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining information.<sup>1</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.

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<sup>1</sup>As noted above, the requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as amendment to Gov’t Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov’t Code § 552.130(d), (e). Therefore, if the department receives another request for the same information from a person who would not have a right of access to the present requestor’s motor vehicle record information, section 552.130(c) authorizes the department to redact this requestor’s motor vehicle record information without requesting another ruling from this office.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 499007

Enc. Submitted documents

c: Requestor  
(w/o enclosures)