



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 23, 2014

Ms. Linda Hight
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033

OR2014-01381

Dear Ms. Hight:

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# 511944.

The Cleburne Police Department (the "department") received a request for thirty-two categories of information pertaining to a specified motor vehicle accident. You state the department has released some information, including the submitted CR-3 accident report. *See* Transp. Code § 550.065(c)(4). 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 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 730.004 of the Transportation Code. Section 730.004 provides:

[n]otwithstanding any other provisions of law to the contrary, including [the Act], except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Transp. Code § 730.004. Section 730.003 provides, for purposes of chapter 730 of the Transportation Code:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency or political subdivision of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4). Section 730.004 applies only to an agency that compiles or maintains motor vehicle records. *See id.* § 730.003(1). You have not provided any explanation, or otherwise demonstrated, that the department compiles or maintains motor vehicle records. Therefore, section 730.004 does not apply to the department. Consequently, the department may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

Pursuant to section 730.007, personal information may be disclosed to an authorized recipient under certain circumstances, including a governmental agency collecting information to carry out its functions. *See* Transp. Code § 730.007(a)(2)(A)(I). Section 730.013 of the Transportation Code provides for purposes of chapter 730 of the Transportation Code:

(a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical format the personal information was disclosed to the recipient by the applicable agency.

(b) An authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.

Id. § 730.013(a), (b). You do not represent the department received the information at issue from an agency that compiles or maintains motor vehicle records for purposes of section 730.013. Accordingly, the department may not withhold any part of the submitted information under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code. *See* ORD 478 at 2.

Section 552.101 of the Government Code 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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). This office has also found that personal financial information not related to a financial transaction between an individual and a governmental body is highly intimate or embarrassing and of no legitimate public interest. *See* Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, mortgage payments, assets, bills, and credit history protected under common-law privacy), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). 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 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 is highly intimate or embarrassing and not of legitimate public interest. Therefore, the department may not withhold any of the remaining information under section 552.101 of the Government Code on the basis of common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Upon review, we find the department must withhold the motor vehicle record information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.¹

We note the remaining information contains insurance policy numbers subject to section 552.136 of the Government Code, which provides "[n]otwithstanding any other provision of this chapter, 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."² *Id.* § 552.136(b). An access device number is one that may be used to 1) obtain money, goods, services, or another thing of value, or 2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number.

¹We note 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. 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 id.* § 552.130(d), (e).

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).

See id. § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136 of the Government Code. The department must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.³

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, the motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code, and the insurance policy numbers we have marked under section 552.136 of the Government Code. The department must release the remaining information.

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.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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 511944

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).