



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 21, 2014

Mr. Jason M. Rammel  
Counsel for City of Round Rock  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664

OR2014-14798

Dear Mr. Rammel:

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# 534999.

The Round Rock Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident.<sup>1</sup> You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 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." Gov't Code § 552.101. Section 552.101 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.

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<sup>1</sup>We note the department failed to comply with section 552.301 of the Government Code in requesting a ruling. Gov't Code § 552.301(b). Nonetheless, we note sections 552.101, 552.130, and 552.136 of the Government Code are mandatory exceptions that constitute compelling reasons to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .301, .302, .352. Accordingly, we will consider the department's arguments under sections 552.101, 552.130, and 552.136.

*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 found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 600 (1992) (personal financial information includes choice of a particular insurance carrier). We note that common-law privacy protects the interests of individuals, not those of corporate and other business entities. *See* Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests); *see also United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950) (cited in *Rosen v. Matthews Constr. Co.*, 777 S.W.2d 434 (Tex. App—Houston [14th Dist.] 1989), *rev'd on other grounds*, 796 S.W.2d 692 (Tex. 1990)) (corporation has no right to privacy). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information we 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 information of no legitimate public interest, and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(3). We note you have redacted motor vehicle record information pertaining to the requestor's clients, as well as other individuals.<sup>2</sup> We have marked additional information under section 552.130. However, section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her clients' motor vehicle record information under section 552.023 of the Government Code, and it may not be withheld from this requestor under section 552.130. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy

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<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including Texas driver's license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion. However, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsection 552.130(a) of the Government Code without the necessity of seeking a decision from the attorney general. *See* 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). Thus, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, a governmental body may redact information subject to subsection 552.130(a) only in accordance with section 552.130, not Open Records Decision No. 684.

principles). Therefore, to the extent the information you have redacted and we have marked under section 552.130 pertains to the requestor's clients, then the department must release this information to the requestor. Conversely, to the extent the information at issue does not belong to the requestor's clients, then the department must withhold it under section 552.130. However, we find none of the remaining information you have marked to withhold consists of motor vehicle record information subject to section 552.130. Accordingly, none of the remaining information may be withheld under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[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"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). We note you have redacted information that may pertain to the requestor's clients, as well as other individuals.<sup>3</sup> We have marked additional information under section 552.136. However, section 552.136 protects personal privacy. Accordingly, the requestor has a right of access to her clients' access device information under section 552.023 of the Government Code, and it may not be withheld from this requestor under section 552.136. Gov't Code § 552.023(a). Therefore, to the extent the information you have redacted and we have marked under section 552.136 pertains to the requestor's clients, then the department must release this information to the requestor. Conversely, to the extent the information at issue does not belong to the requestor's clients, then the department must withhold it under section 552.136.

In summary, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you redacted and we marked under section 552.130 of the Government Code; however, the department must release this information if it pertains to the requestor's clients. The department must withhold the information you redacted and we marked under section 552.136 of the Government Code; however, the department must release this information if it pertains to the requestor's clients. 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.

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<sup>3</sup>Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *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).

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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 534999

Enc. Submitted documents

c: Requestor  
(w/o enclosures)