



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 1, 2014

Mr. Grant Jordan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2014-21586

Dear Mr. Jordan:

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# 547236 (ORR No. W037311).

The City of Fort Worth (the "city") received a request for a specified incident report. The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the claimed exceptions 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 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). Generally, only highly intimate

¹We understand the city to raise section 552.130 based on its markings.

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 entire report must be withheld to protect the individual's privacy.

You argue the submitted information must be withheld in its entirety on the basis of common-law privacy. However, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the submitted information must be withheld on the basis of common-law privacy. Thus, the city may not withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Nevertheless, we find the information you have marked, as well as the information we have marked, under common-law privacy satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must generally withhold the information marked 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. *See* Gov't Code § 552.130. The city must generally withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

However, the requestor may be an authorized representative of the individual whose information is at issue. Section 552.023 of the Government Code provides a governmental body may not deny access to a person or a person's representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. *Id.* § 552.023(a). Thus, if the requestor represents the individual whose information is at issue, then the city may not withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy or under section 552.130 of the Government Code but, instead, must release it to her.

To conclude, if the requestor does not represent the individual whose information is at issue, then the city must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code, but must release the remaining information. If the requestor represents the individual whose information is at issue, then the city must release the submitted information in its entirety to her pursuant to section 552.023 of the Government Code.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

Ref: ID# 547236

Enc. Submitted documents

c: Requestor
(w/o enclosures)