



January 21, 2015

Ms. Kelly R. Madrid
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2015-01150

Dear Ms. Madrid:

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# 551108 (Fort Worth PIR No. W038090).

The City of Fort Worth (the "city") received a request for all applications for taxi driver permits or licenses, issued licenses or permits, background checks, driving records checks, and medical examination certificates pertaining to a named individual over a specified time period. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.122, 552.130, and 552.147 of the Government Code.¹ 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. Section 552.101 of the Government Code 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,

¹Although you do not raise sections 552.130 and 552.147 of the Government Code in your brief, we understand you to raise these sections based on your markings in the submitted information.

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). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the information we have marked must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate any portion of the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.122 of the Government Code excepts from public disclosure “[a] test item developed by a . . . governmental body[.]” Gov’t Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term “test item” in section 552.122 includes “any standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated,” but does not encompass evaluations of an employee’s overall job performance or suitability. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

You state the information you have marked consists of a standardized answer code. You assert release of the information at issue would be disadvantageous to the driver selection process and would “jeopardize the effectiveness of future examinations.” Upon review, we find the information you have marked does not consist of test questions and does not reveal the nature of the test questions themselves. Therefore, we conclude the city has not demonstrated the information at issue consists of test items subject to section 552.122(b) of the Government Code, and may not withhold it on that basis.

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. Accordingly, the city must withhold the driver’s license number you have marked and the additional information we have marked under section 552.130 of the Government Code.

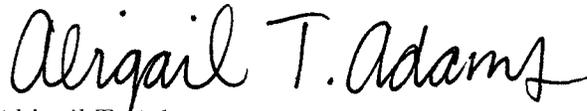
Section 552.147 of the Government Code provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147. Therefore, the city may withhold the social security number you have marked in the submitted information under section 552.147.

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. The city must withhold the driver's license number you have marked and the additional information we have marked under section 552.130 of the Government Code. The city may withhold the social security number you have marked under section 552.147 of the Government Code. The city must release the remaining submitted 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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 551108

Enc. Submitted documents

c: Requestor
(w/o enclosures)