



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 16, 2015

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

OR2015-04985

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# 556320 (Fort Worth Request No. W039216).

The City of Fort Worth (the "city") received a request for information pertaining to specified housing complaints, complaints made against two named individuals and two specified businesses, and complaints filed by two other named individuals. The city states it will release some of the requested information upon the requestor's response to a cost estimate. We understand the city will redact social security numbers pursuant to section 552.147 of the Government Code and personal e-mail addresses under section 552.137 of the Government Code pursuant to the previous determination issued in Open Records Decision No. 684 (2009).¹ You claim some of the submitted information is excepted from disclosure under

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

sections 552.101, 552.130, and 552.136 of the Government Code.² 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 made confidential by other statutes, such as section 182.052 of the Utilities Code, which provides, in relevant part:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer’s account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer’s volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). Section 182.052 applies to personal information in a customer’s account record that is being held by a government-operated utility. *See id.* § 182.051(4). “Government-operated utility” means a governmental body or an entity governed by a governmental body that, for compensation, provides water, wastewater, sewer, gas, garbage, electricity, or drainage service. *Id.* § 182.051(3). In this instance, the documents at issue consist of information that is maintained by the city’s Department of Housing Urban Development (the “department”). We note the department is not a government-operated utility for purposes of section 182.052. Because the department is not a government-operated utility, we have no basis for concluding section 182.052 of the Utilities Code is applicable to any of the submitted information. Accordingly, none of the submitted information may be withheld under section 552.101 on the basis of section 182.052.

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

²We understand you to raise sections 552.130 and 552.136 of the Government Code based on your markings.

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 found that personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). 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 some of the information the city marked and the additional information we have marked satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we find the city has failed to demonstrate how the remaining information the city marked is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold this information, which we have marked for release, under section 552.101 in conjunction with common-law privacy. Accordingly, except for the information we have marked for release, the city must withhold the information you have marked and the additional information we have 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(a). Upon review, we find the city must withhold the information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code states “[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.” *Id.* § 552.136. Accordingly, we find the city must withhold the bank account and routing numbers and utility account numbers we have marked under section 552.136 of the Government Code. However, the remaining information you have marked does not consist of access device numbers and may not be withheld under section 552.136.

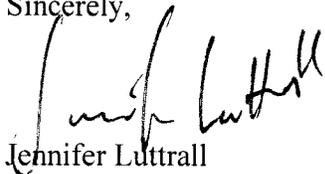
In summary, except for the information we have marked for release, the city must withhold the information you have marked and the additional information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city

must withhold the information we have marked under sections 552.130 and 552.136 of the Government Code. The remaining information must be released.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 556320

Enc. Submitted documents

c: Requestor
(w/o enclosures)