



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 21, 2015

Ms. Natasha Brooks
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79701

OR2015-09951

Dear Ms. Brooks:

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# 564449 (City ID #16209).

The City of Midland (the "city") received a request for information related to a specified incident. You state the city has released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. *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 or 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 you have marked meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note, however, the requestor may be acting as an authorized representative of the individual to whom the information at issue pertains. If the requestor

is acting as the individual's authorized representative, then the requestor has a right of access pursuant to section 552.023 of the Government Code to the information you have marked, and the city must release this information to the requestor. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). If the requestor is not acting as the individual's authorized representative, then the city must withhold the information you 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 or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release.¹ Gov't Code § 552.130(a). Upon review, we conclude the city must generally withhold the information we have marked under section 552.130 of the Government Code. However, if the requestor is acting as the authorized representative of the individual whose information we have marked, then the requestor has right of access to that individual's information under section 552.023 of the Government Code. *See id.* § 552.023(b); ORD 481 at 4. Thus, if the requestor is acting as the authorized representative of this individual, then the city may not withhold any of this individual's information under section 552.130 of the Government Code.

In summary, if the requestor is not acting as the authorized representative of the individual to whom the information relates, then the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy; however, if the requestor is acting as the authorized representative of this individual, then the city may not withhold this information. If the requestor is not acting as the authorized representative of the individual to whom the information relates, then the city must withhold the information we have marked under section 552.130 of the Government Code; however, if the requestor is acting as the authorized representative of this individual, then the city may not withhold this information. In either case, the city must release the remaining information.²

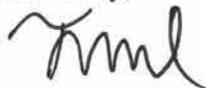
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the remaining information contains a social security number. Section 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. Gov't Code § 552.147(b). However, if the requestor is an authorized representative of the individual at issue, then she has a right of access under section 552.023 of the Government Code to the individual's social security number, and it may not be withheld from her under section 552.147. *See id.* § 552.023(b).

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,

A handwritten signature in black ink, appearing to read 'Tim Neal', written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 564449

Enc. Submitted documents

c: Requestor
(w/o enclosures)