



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2015

Ms. Captoria Brown
Paralegal
Office of the City Attorney
City of Carrollton
1945 East Jackson Road
Carrollton, Texas 75006

OR2015-10083

Dear Ms. Brown:

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# 565294 (PIR No. 4594).

The City of Carrollton (the "city") received a request for a specified report. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We note you have also notified two named individuals and the requestor's attorney of the right to submit written comments to this office stating reasons why the information should or should not be released.² See Gov't Code § 552.304. We have considered the exceptions you claim and reviewed the submitted information.

¹Although you do not raise section 552.130 in your brief, we understand you to raise this section based on your markings in the submitted information. We note the city did not comply with section 552.301 of the Government Code in requesting this decision. See Gov't Code § 552.301(b), (e). Nonetheless, because sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the applicability of these sections to the submitted information. See *id.* §§ 552.007, .302, .352. Further, although you generally cite to sections 71.004 and 71.007 of the Family Code, we note these sections do not make information confidential. See Fam. Code §§ 71.004, .007 (defining "family violence" and "prosecuting attorney" for purposes of title 4 of the Family Code).

²As of the date of this letter, we have not received comments from any of the notified individuals.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 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. The 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 some of the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we note this information, which we have marked, pertains to a minor child and the requestor may be a legal guardian of this child. If the requestor is the legal guardian of the child whose information is at issue, he has a right of access to information that would ordinarily be withheld to protect the child’s common-law privacy interests. *See* Gov’t Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on grounds that information is considered confidential by privacy principles). Therefore, to the extent the requestor is the legal guardian of the child whose privacy interest is at issue, he has a right of access to information pertaining to the child pursuant to section 552.023 of the Government Code, and it may not be withheld from him pursuant to common-law privacy. Additionally, we find none of the remaining information you have marked is highly intimate or embarrassing and of no legitimate public interest; therefore, none of it may be withheld under section 552.101 on the basis of 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 a 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. Upon review, we find the city must withhold the motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.

In summary, if the city determines the requestor is not a legal guardian of the child whose privacy interest is at issue, then 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 information you have marked and we have marked under section 552.130 of the Government Code. The city 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.

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 cursive script that reads "Britni Fabian".

Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 565294

Enc. Submitted documents

c: Requestor
(w/o enclosures)