



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 28, 2015

Ms. Yahitza Nuñez
Assistant District Attorney
Civil Division
County of Hays
712 South Stagecoach Trail, Suite 2057
San Marcos, Texas 78666

OR2015-10448

Dear Ms. Nuñez:

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# 565099 (Ref. No. 15-0103).

The Hays County District Attorney's Office (the "district attorney's office") received a request for information during a specified time period pertaining to a specified address. You state some information was released 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 from disclosure "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 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). You assert portions of the submitted information are protected by common-law privacy. Upon review, we find that

while portions of the submitted information meet the standard articulated by the Texas Supreme Court in *Industrial Foundation*, the requestor is the individual whose privacy interest is at issue. Accordingly, the requestor has a special right of access under section 552.023 of the Government Code to the information pertaining to herself that would otherwise be confidential under common-law privacy. See Gov't Code § 552.023(a) ("person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"). As you raise no further exceptions to disclosure, the district attorney's office must release the submitted information.¹

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,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 565099

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note because the requestor has a right of access to information being released in this instance, the district attorney's office must again seek a decision from this office if it receives another request for the same information from another requestor.