



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 17, 2015

Mr. Matthew L. Grove  
Assistant County Attorney  
County of Fort Bend  
401 Jackson Street, Third Floor  
Richmond, Texas 77469

OR2015-14617

Dear Mr. Grove:

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# 573780.

Fort Bend County (the "county") received a request for information regarding the county's environmental health department, including written complaints related to four named employees.<sup>1</sup> You claim some of the submitted information is 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

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<sup>1</sup>You state the county sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

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).

Upon review, we find the information we marked meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the county must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

We note some of the remaining information is subject to section 552.117 of the Government Code.<sup>2</sup> Section 552.117(a)(1) excepts from disclosure the current and former home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a). Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The county may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Therefore, if the individual whose information is at issue timely requested confidentiality under section 552.024, the county must withhold the information we have marked under section 552.117(a)(1) of the Government Code. Conversely, if the individual whose information is at issue did not timely request confidentiality under section 552.024, then the county may not withhold the marked information under section 552.117(a)(1).

In summary, the county must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. Provided the individual whose information is at issue timely requested confidentiality under section 552.024, the county must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The county 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.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 573780

Enc. Submitted documents

c: Requestor  
(w/o enclosures)