



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Ms. Clarissa M. Rodriguez
Counsel for the City of Schertz
Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C.
2517 North Main Avenue
San Antonio, Texas 78212

OR2015-25348

Dear Ms. Rodriguez:

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# 589143.

The City of Schertz (the "city"), which you represent, received a request for information pertaining to "police officer transfers, reassignments, firings, etc." since 2009. You inform us the city will redact certain information pursuant to section 552.117(a)(2) of the Government Code in accordance with Open Records Decision No. 670 (2001).¹ You claim some of the submitted information is excepted from disclosure under section 552.152 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the

¹Open Records Decision No. 670 is a previous determination to all governmental bodies authorizing them to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. ORD 670 at 6.

requirements of Section 552.021 if under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You state release of the submitted names could bring harm to the individuals at issue. Upon review, we find you have failed to demonstrate the release of the information at issue would subject any individual to a substantial threat of harm. Accordingly, none of the submitted information may be withheld under section 552.152 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”² *Id.* § 552.101. 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. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we find the information we have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). Upon review, we find the city must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, 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 e-mail address we have marked under section 552.137 of the Government Code, unless

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

the owner affirmatively consents to its public disclosure. 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/dls

Ref: ID# 589143

Enc. Submitted documents

cc: Requestor
(w/o enclosures)