



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 28, 2015

Ms. Julie P. Doshier  
Counsel for the City of Highland Village  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Ross Tower  
500 North Akard  
Dallas, Texas 75201

OR2015-27082

Dear Ms. Doshier:

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# 591928 (ORR# 2015-170).

The City of Highland Village (the "city"), which you represent, received a request for information related to a specified incident involving a named individual. You claim 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 "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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be

withheld to protect the individual's privacy. The city seeks to withhold the entirety of the submitted information under section 552.101 in conjunction with common-law privacy. However, the city has not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the city may not withhold the entirety of the submitted information under section 552.101 of the Government Code on that basis.

This office has also 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 submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold this information, which we have marked and noted, under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the city may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses information protected by section 773.091 of the Health and Safety Code, which provides in part:

(a) A communication between certified emergency medical services [(“EMS”)] personnel or a physician providing medical supervision and a patient that is made in the course of providing emergency medical services to the patient is confidential and privileged and may not be disclosed except as provided by this chapter.

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Health & Safety Code § 773.091(a)-(b), (g). You argue the remaining information contains records made and maintained by emergency medical services personnel. Upon review, we find you have not demonstrated any portion of the information at issue consists of communications between certified emergency medical services personnel providing medical

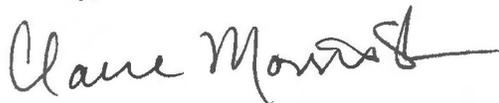
supervision and patients that were made in the course of providing emergency medical services to the patients. *See id.* § 773.091(a). Furthermore, the information at issue does not consist of records of the identity, evaluation, or treatment of patients by emergency medical services personnel providing medical supervision that were created by the emergency medical services personnel or maintained by an emergency medical services provider. *See id.* § 773.091(b). Accordingly, we find section 773.091 does not apply to any portion of the remaining information, and the city may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

In summary, the city must withhold the information we marked and noted under section 552.101 of the Government Code in conjunction with common-law privacy and 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 591928

Enc. Submitted documents

c: Requestor  
(w/o enclosures)