



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 24, 2016

Mr. Guillermo Trevino
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2016-04450

Dear Mr. Trevino:

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# 599459 (City PIR No. W047651).

The City of Fort Worth (the "city") received a request for the personnel file of a named city employee. You state the city will release some of the requested information. 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.

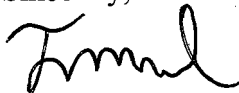
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly 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. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from disclosure under common-law privacy. See Open Records Decision Nos. 600 (1992) (public employee's withholding allowance certificate, designation of beneficiary of employee's

retirement benefits, direct deposit authorization, and employee's decisions regarding voluntary benefits programs, among others, protected under common-law privacy), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). However, information concerning financial transactions between an employee and a public employer is generally of legitimate public interest. ORD 545. We note the payroll deductions for federal withholding tax are protected by common-law privacy and must be withheld under section 552.101, but the payroll deductions for social security, mandatory retirement, and Medicare are not protected by common-law privacy and may not be withheld under section 552.101. *See, e.g.*, ORDs 600 at 9-12 (participation in TexFlex), 545 at 3-5; *see also* Attorney General Opinion GA-0572 at 4 (2007) (public employee's net salary protected by common-law privacy, but gross salary is not). Upon review, we find most of the information you have marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, with the exception of the information we have marked for release, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the city may not withhold the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 599459

Enc. Submitted documents

c: Requestor
(w/o enclosures)