



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 17, 2016

Mr. Ed C. Jones
County Attorney
County of Angelina
P.O. Box 1845
Lufkin, Texas 75902-1845

OR2016-13852

Dear Mr. Jones:

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# 614670.

The Angelina County Judge's Office (the "judge's office") received a request for a specified settlement agreement involving a named individual and the County of Angelina. You assert the judge's office is not required to comply with this request pursuant to section 552.222 of the Government Code. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state you notified the named individual and two other parties of their rights to submit comments to this office why the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we address your claim that the judge's office is not required to comply with the instant request for information. You inform us "the requestor does not identify themselves by name, only [by] an [e-mail] address." You assert that, pursuant to section 552.222(a) of the Government Code, the instant request is invalid under the Act because the requestor has

¹As of the date of this letter, this office has not received comments from any third party explaining why the submitted information should not be released.

not provided his or her name. Section 552.222 of the Government Code provides, in relevant part:

(a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b), (c), or (c-1).

(b) If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request . . . but the governmental body may not inquire into the purpose for which information will be used.

(c) If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information[.]

(c-1) If the information requested includes a photograph described by Section 552.155(a), the officer for public information or the officer's agent may require the requestor to provide additional information[.]

Id. § 552.222(a)-(c-1). Section 552.222 establishes the permissible inquiries a governmental body may make to a requestor. Although a governmental body may not inquire into the purpose for which information will be used, a governmental body may ask the requestor to clarify a request if the request for information is unclear. *See id.* § 552.222(b). Further, since a special right of access to information exists in some circumstances that requires a requestor to establish proper identification, a governmental body may ask the requestor to establish proper identification. *See id.* § 552.222(a), (c)-(c-1); *See, e.g., id.* § 552.023 (person or person's authorized representative has special right of access to information relating to person and protected from public disclosure by laws intended to protect that person's privacy interests). However, the identity of the requestor is generally not a factor to be considered when a governmental body receives an open records request. *See id.* § 552.223 (requiring uniform treatment of all open records requests). *But see id.* § 552.028 (governmental body not required to accept or comply with request for information from an individual who is imprisoned or confined in a correctional facility, or an agent of the individual other than that individual's attorney). You have not explained, nor can we discern from the submitted information, the reason identification would be necessary in this instance. Furthermore, failure to provide identification under section 552.222 is not grounds for a governmental body to refuse to respond to a request for public information. *See id.* § 552.222(b)-(c-1). Therefore, upon review, we find the present request to be a valid request for information under the Act. Accordingly, we will address the arguments against disclosure.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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. Upon review, we find the judge's office failed to demonstrate any portion of the submitted information is highly intimate or embarrassing and of no legitimate public interest. Thus, the judge's office may not withhold the submitted information under section 552.101 in conjunction with common-law privacy. As no further exceptions to disclosure have been raised, the judge's office must release the submitted 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/akg

Ref: ID# 614670

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)