



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 29, 2016

Ms. Akilah Mance
Ms. Paula Alexander
Counsels for the City of Humble
Olson & Olson LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2016-26403A

Dear Ms. Mance & Ms. Alexander:

This ruling examines Open Records Letter No. 2016-26403 (2016) and whether certain information is subject to required public disclosure under chapter 552 of the Government Code.

The City of Humble (the "city"), which you represent, received a request for records of a named individual for a specified time period. We have re-examined our ruling in Open Records Letter No. 2016-26403 and determined we made an error. Where this office determines an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on November 29, 2016.

The city asserts section 552.101 of the Government Code excepts the information from public disclosure. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is 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 elements of this test must be established. *Id.* at 681-82. Types of information considered intimate or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we agree the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, the entire report must be withheld to protect the

individual's privacy. In this instance, the requestor represents the suspect in the report at issue. Thus, withholding only the individual's identity or certain details of the report from this requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual, who is not the requestor's client, to whom the information relates, the city must withhold the submitted report in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ac

Ref: ID# 646582

Enc. Submitted documents

c: Requestors
(w/o enclosures)