



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 11, 2017

Ms. Lora Lenzsch
Counsel for City of Sealy
Lenzsch Law Firm
P.O. Box 344
Barker, Texas 77413

OR2017-07661

Dear Ms. Lenzsch:

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# 652680.

The City of Sealy (the "city"), which you represent, received a request for reprimands, performance evaluations, reviews, or assessments pertaining to the job performance of four named city employees during a specified time period. 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.

Initially, you have marked some of the submitted information as not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the city need not release non-responsive information to the requestor.

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 or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683. Furthermore, this

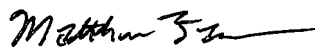
office has noted the public has a legitimate interest in information that relates to public employees and their conduct in the workplace. *See, e.g.*, Open Records Decision Nos. 562 at 10 (1990) (personnel file information does not involve most intimate aspects of human affairs but in fact touches on matters of legitimate public concern), 470 at 4 (1987) (job performance does not generally constitute public employee's private affairs), 444 at 3 (1986) (public has obvious interest in information concerning qualifications and performance of government employees), 405 at 2 (1983) (manner in which public employee's job was performed cannot be said to be of minimal public interest), 329 (1982) (reasons for employee's resignation ordinarily not private).

Upon review, we find you have failed to demonstrate any of the responsive information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold the responsive information under section 552.101 on that basis. As you raise no further exceptions to disclosure, the city must release the responsive 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 652680

Enc. Submitted documents

c: Requestor
(w/o enclosures)