



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2017

Ms. Akilah Mance
Counsel to the City of Stafford
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019

OR2017-08849

Dear Ms. Mance:

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# 654803 (COS17-013).

The City of Stafford (the "city"), which you represent, received a request for all open records requests made to the city within a range of dates. You state you will release some information. You state you will withhold information pursuant to sections 552.130 and 552.147 of the Government Code, as well as under Open Records Decision No. 684. (2009).¹ You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

Initially, you indicate some of the submitted information is not responsive to the present request because it is not within the context of an open records request within the specified dates. This ruling does not address the public availability of the non-responsive information and the city need not release it in response to this request.

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. The court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Furthermore, this office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 600 (1992) (personal financial information includes choice of a particular insurance carrier). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the information must be withheld in its entirety to protect the individual’s privacy. Upon review, we find you have not demonstrated, and the submitted information does not reflect, this is a situation in which the submitted information must be withheld in its entirety to protect an individual’s privacy interest. We find portions of the submitted information, which we have marked, satisfy the standard articulated in *Industrial Foundation*. Accordingly, the city must withhold the dates of birth of public citizens, which it has marked, and the additional information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the city must withhold the e-mail addresses it has marked and the additional e-mail addresses we have marked under section 552.137 of the

Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure.²

Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of specified categories of individuals. *See* Gov't Code § 552.117. We note section 552.117 applies only to records that a governmental body is holding in an employment capacity. The information at issue consists of open records requests maintained by the city and is not held by the city as an employer. Therefore, we find section 552.117(a) of the Government Code does not apply in this situation, and the city may not withhold any portion of the information you have marked on that basis.

The remaining documents also include information that is subject to section 552.136 of the Government Code.³ Section 552.136 of the Government Code provides, "Notwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Accordingly, the city must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code.

In summary, the city must withhold the dates of birth of public citizens, which it has marked, and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the e-mail addresses it marked and the additional e-mail addresses we marked under section 552.137 of the Government Code. The city must withhold insurance policy numbers under section 552.136 of the Government Code. The remaining information must be released.

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.

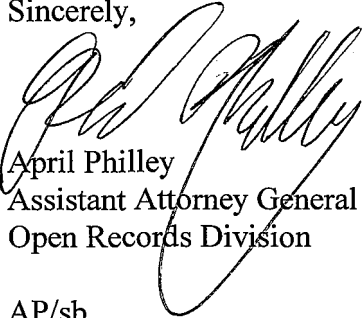
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

²As our ruling for this information is dispositive, we need not address remaining arguments against its disclosure.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

[ori_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,



April Philley
Assistant Attorney General
Open Records Division

AP/sb

Ref: ID# 654803

Enc. Submitted documents

c: Requestor
(w/o enclosures)