



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 8, 2017

Ms. Michelle L. Villarreal
Deputy City Attorney
City of League City
300 West Walker Street
League City, Texas 77573

OR2017-09798

Dear Ms. Villarreal:

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# 656563 (PIR# 17-103).

The City of League City (the "city") received a request for hearing examiner decisions for the police and fire departments for 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 representative sample of information.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

We note the submitted information consists of a hearing examiner's final decision regarding an appeal of disciplinary action made by an officer from a public civil service hearing conducted by the hearing examiner on behalf of the city's civil service commission (the "commission"). *See* Local Gov't Code §§ 143.010(c) (providing each commission proceeding shall be held in public), .057(f) (providing the hearing examiner has the same duties and powers as the commission); *see also Downs v. City of Fort Worth*, 692 S.W.2d 209 (Tex.App.—Fort Worth 1985, writ ref'd n.r.e.) (equating appeals to independent


¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

third party hearing examiner with appeals to civil service commission). Section 143.011 of the Local Government Code provides that “[e]ach rule, opinion, directive, decision, or order issued by the commission must be written and constitutes a public record the commission shall retain on file.” Local Gov’t Code § 143.011(c). Accordingly, we find the hearing examiner’s final decision is subject to section 143.011 of the Local Government Code and, thus, is a public record. As a general rule, the exceptions to disclosure found in the Act are not applicable to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 544 (1990), 525 at 3 (1989), 378 (1983), 161 (1977), 146 (1976). Further, information that is specifically made public by statute may not be withheld under section 552.101 on the basis of common-law privacy. *See Collins v. Tex Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle); *Center Point Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Accordingly, the city must release the submitted information under section 143.011 of the Local Government Code.

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 656563

Enc. Submitted documents

c: Requestor
(w/o enclosures)