



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 9, 2017

Ms. Elizabeth Reynolds  
Paralegal  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2017-12756

Dear Ms. Reynolds:

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# 661297 (Internal Ref. No. C002293-032717).

The City of Dallas (the "city") received a request for all information pertaining to a specified incident. You state the city will release some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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 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

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<sup>1</sup>We 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 that those records contain substantially different types of information than that submitted to this office.

common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). This office has also found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See generally* Open Records Decision Nos. 600 at 9-10 (1992) (employee's withholding allowance certificate, designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). Further, 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.). Upon review, we find the information you have marked and we have marked for withholding satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the information you have marked and we have marked for withholding under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup>

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, except for the information we have marked for release, the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. However, we find you have not demonstrated the information we have marked for release consists of motor vehicle record information subject to section 552.130. Thus, the city may not withhold this information under section 552.130 of the Government Code.

Section 552.136 of the Government Code states, “[n]otwithstanding any other provision of this chapter, 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.” *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device number for the purposes of section 552.136. *See* Open Records Decision No. 684 (2009). You state the employee identification numbers you have marked are used in conjunction with one additional digit to access city credit union bank accounts. Additionally, you assert the residential access code numbers you have marked are confidential under section 552.136. Upon review, we find the city must withhold the employee identification and insurance policy numbers you have marked under

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

section 552.136 of the Government Code. However, upon review, we find you have failed to demonstrate the residential access code numbers you have marked are confidential under section 552.136. Therefore, the city may not withhold this information, which we have marked for release, under section 552.136 of the Government Code.

In summary, the city must withhold the information you have marked and we have marked for withholding under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we have marked for release, the city must withhold the motor vehicle record information you have marked under section 552.130 of the Government Code. The city must withhold the employee identification and insurance policy numbers you have marked under section 552.136 of the Government Code. The city must release the remaining 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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/sb

Ref: ID# 661297

Enc. Submitted documents

c: Requestor  
(w/o enclosures)