



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 25, 2017

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2017-21925

Dear Mr. Kopp:

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# 677081 (COSA File No. W173258).

The City of San Antonio (the "city") received a request for the police report related to a specified traffic accident. The city released information responsive to the request but made redactions as permitted by sections 552.130 and 552.136 of the Government Code without requesting a decision from this office.¹ *See* Gov't Code §§ 552.130(c), .136(c). You indicate the city will release additional information responsive to the request. Pursuant to sections 552.130(d) and 552.136(d), the requestor has asked this office to review the information and render a decision as to whether it is excepted from disclosure under sections 552.130(a) and 552.136(b) of the Government Code. *See id.* §§ 552.130(d), .136(d).

¹The city also redacted dates of birth of members of the public in accordance with a previous determination issued to the city in Open Records Letter No. 2016-08566 (2016), which authorizes the city to redact that type of information without a ruling from this office. Subsequently, the city determined the requestor has a right of access to the date of birth belonging to the requestor's client, and no longer seeks to withhold that information under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, we understand the city will continue to withhold the remaining dates of birth of individuals for whom the requestor is not the authorized representative in accordance with Open Records Letter No. 2016-08566.

You argue some of the submitted information is not responsive to the request. We have considered the city's position and reviewed the information.

Initially, although you have marked certain information as being not responsive to the request, we note the information at issue is contained within the requested police report. We therefore conclude the information at issue is responsive to the request. Because you raise no exceptions to disclosure of this information, it may not be withheld.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Id.* § 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. 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).

Upon review, we find some of the submitted information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Thus, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country: Gov't Code § 552.130(a). You have determined the requestor, who is the authorized representative of his client, has a right of access to his client's motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b); ORD No. 481 at 4. However, we note the requestor does not have a right of access to motor vehicle record information belonging to individuals other than his client. Accordingly, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.136(b) of the Government Code provides, "[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." Gov't Code § 552.136(b). The city asserts the submitted employee SAP numbers are confidential under section 552.136 because they can be used by employees to obtain certain goods, such as gasoline. Based on these representations, we agree this information constitutes access

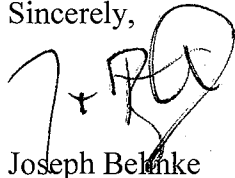
device numbers for purposes of section 552.136. Accordingly, the city must continue to withhold the employee SAP numbers in the information at issue under section 552.136 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The city must continue to withhold the employee SAP numbers in the information at issue under section 552.136 of the Government Code. The city must release the remaining information to this requestor.²

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,



Joseph Belenke
Assistant Attorney General
Open Records Division

JB/gw

Ref: ID# 677081

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a right of access to some of the information being released under section 552.023 of the Government Code. See Gov't Code § 552.023.