



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

October 2, 2017

Dr. Francisco I. Peña  
Mayor  
City of Rio Bravo  
1701 Centeno Lane  
Rio Bravo, Texas 78046

OR2017-22434

Dear Dr. Peña:

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# 678226.

The City of Rio Bravo (the "city") received a request for information pertaining to the city's Chief of Police. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

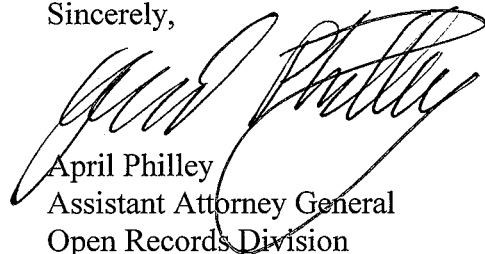
Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). We understand you to assert the privacy analysis under section 552.102(a) is the same as the common-law privacy test under section 552.101 of the Government Code. Section 552.101 of the Government Code also encompasses common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). In *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 549-51 (Tex. App.—Austin 1983, writ ref'd n.r.e.), the court of appeals ruled the privacy test under section 552.102(a) is the same as the *Industrial Foundation* privacy test. However, the Texas Supreme Court has expressly disagreed with *Hubert's* interpretation of section 552.102(a) and held the privacy standard under

section 552.102(a) differs from the *Industrial Foundation* test under section 552.101. See *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find no portion of the submitted information is subject to section 552.102(a) of the Government Code, and the city may not withhold any of the submitted information on that basis. As no further exceptions to disclosure have been raised, the city must release the submitted 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,



April Philley  
Assistant Attorney General  
Open Records Division

AP/sb

Ref: ID# 678226

Enc. Submitted documents

c: Requestor  
(w/o enclosures)