



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 27, 2017

Ms. Lisa Ruiz
Paralegal
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2017-24573

Dear Ms. Ruiz:

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# 681989 (ORR# C006211).

The City of Dallas (the "city") received a request for e-mails between two named individuals during a specified time period and the personnel file of a named individual.¹ The city indicates it will rely on Open Records Letter No. 2017-24465 (2017) for a portion of the requested information. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). The city states it will redact public citizens' dates of birth pursuant to Open Records Letter No. 2017-09757

¹The city states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(2017).² The city states it will withhold social security numbers pursuant to section 552.147(b) of the Government Code.³ The city states it will release some of the requested information. The city claims some of the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.130, 552.136, and 552.137 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information the city marked and the additional information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Gov’t Code § 552.117(a)(1). However, an incomplete address that includes only a city is not a “home address” for the purposes of section 552.117 and may not be withheld on that basis. *See id.* § 552.117; Open Records Decision No. 622 at 4 (1994) (purpose of section 552.117 is to protect public employees from being harassed at home); *see also* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express and cannot be implied). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body’s receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or

²Open Records Letter No. 2017-09757 authorizes the city to withhold public citizens’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a ruling from this office.

³Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.147(b).

former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. We note section 552.117 protects personal privacy. Accordingly, the requestor has a right of access to her own information under section 552.023 of the Government Code and the city may not withhold such information from this requestor under section 552.117. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Portions of the information the city marked, which we have marked for release, are not subject to section 552.117 or belong to the requestor. Therefore, the city may not withhold the information we marked for release under section 552.117(a)(1) of the Government Code. To the extent the individual whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, the city must withhold the remaining information it marked under section 552.117(a)(1) of the Government Code. Conversely, to the extent the individual at issue did not timely request confidentiality under section 552.024, the city may not withhold the marked information under section 552.117(a)(1).

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. Accordingly, the city must withhold the motor vehicle record information it marked and the additional motor vehicle record information we marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[n]otwithstanding 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). The city states the employee identification numbers it marked are used in conjunction with one additional digit to access city credit union bank accounts. We therefore conclude the city must withhold the employee identification numbers it marked under section 552.136 of the Government Code.

In summary, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information we marked for release, the city must withhold the information it marked under section 552.117(a)(1) of the Government Code if the individual whose information is at issue timely requested confidentiality under section 552.024 of the Government Code. The city must withhold the marked motor vehicle record information under section 552.130 of the Government Code. The city must withhold the employee identification numbers it marked

under section 552.136 of the Government Code. The city must release the remaining information to this requestor.⁴

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/tdw

Ref: ID# 681989

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note the requestor has a right of access to some of the information being released. See Gov't Code § 552.023(a); ORD 481 at 4.