



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 27, 2017

Mr. Zachary Brown
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2017-26824

Dear Mr. Brown:

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# 687295 (PIR# 37089).

The City of Austin (the "city") received a request for information pertaining to a specified address. The city states it will release some information to the requestor. The city also states it is withholding access device numbers pursuant to section 552.136(c) of the Government Code.¹ The city further states it is withholding e-mail addresses under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).² The city claims portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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.

¹Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See* Gov't Code § 552.136(d), (e).

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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 excepted from required public disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 545 (1990) (common-law privacy protects mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information).

Upon review, we agree most of the information the city marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, we find the city has not demonstrated portions of the information it marked are highly intimate or embarrassing and not of legitimate public concern. This information, which we have marked for release, may not be withheld under section 552.101 in conjunction with common-law privacy. Accordingly, with the exception of the information we marked for release, the city must withhold the information it marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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, 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,



James M. Graham
Attorney
Open Records Division

JMG/eb

Ref: ID# 687295

Enc. Submitted documents

c: Requestor
(w/o enclosures)