March 29, 2018

Ms. Kristi Godden  
Counsel for the Edinburg Consolidated Independent School District  
O’Hanlon, McCollom & Demerath  
808 West Avenue  
Austin, Texas 78701-2208

Dear Ms. Godden:

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# 701322 (Ref. No. E000401).

The Edinburg Consolidated Independent School District (the “district”), which you represent, received a request for a specified report. You state the district will release most of the requested information to the requestor. You also state the district will redact information pursuant to sections 552.130(c) and 552.136(c) of the Government Code. Additionally, you state the district will redact dates of birth of members of the public pursuant to Open Records Letter No. 2016-11758 (2016). You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See id. § 552.130(d), (e). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. See id. § 552.136(c).

Open Records Letter No. 2016-11758 authorizes the district to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general’s decision.
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 of the Government Code 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 agree the information you have marked consists of information that satisfies the standard articulated by the Texas Supreme Court in Industrial Foundation. Therefore, the district must withhold that information under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the district must release the remaining information at issue.\(^3\)

Finally, you ask this office to issue a previous determination permitting the district to withhold the name of an individual's chosen insurance company within district police reports under section 552.101 of the Government Code in conjunction with common-law privacy without requesting an opinion from this office. See Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). After due consideration, we have decided to grant your request. Therefore, this previous determination authorizes the district to withhold an individual's chosen insurance company within district police reports under section 552.101 of the Government Code in conjunction with common-law privacy. We note common-law privacy is a personal right that lapses at an individual's death. See Moore v. Charles B. Pierce Film Enters., Inc., 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); see also Open Records Decision Nos. 620 (1993), 272 (1981), 192 (1978). Therefore, this previous determination is not applicable to insurance company information belonging solely to deceased individuals. We also note a person or a person's authorized representative has a special right of access under section 552.023 of the Government Code to information that is protected from public disclosure by laws intended to protect the person's privacy interests. See Gov't Code § 552.023(a); ORD 481 at 4. Therefore, this previous

\(^3\)We note the requestor has a right of access beyond that of the general public to some of the information being released. See Gov't Code § 552.023(a) (person or 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 is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself).
determination is not applicable to insurance company information requested by a person or the authorized representative of a person whose information is at issue. Furthermore, information filed with a court is not protected by common-law privacy. See Gov’t Code § 552.022(a)(17); Star-Telegram, Inc. v. Walker, 834 S.W.2d 54, 57 (Tex. 1992) (common-law privacy not applicable to court-filed document). Accordingly, this previous determination is not applicable to information contained in court-filed documents. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the district need not ask for a decision from this office again with respect to this type of information. See ORD 673 at 7-8 (listing elements of second type of previous determination under Gov’t Code § 552.301(a)).

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,

Michelle Garza
Assistant Attorney General
Open Records Division

MG/som

Ref: ID# 701322

Enc. Submitted documents

c: Requestor
(w/o enclosures)