October 26, 2018

Ms. Jennifer Burnett
Senior Attorney & Public Information Coordinator
Office of the General Counsel
University of Texas System
210 West 7th Street
Austin, Texas 78701

Dear Ms. Burnett:

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# 734769 (ORR# 184490).

The University of Texas Southwestern Medical Center (the “university”) received a request for a specified incident report. The university states it will withhold information under sections 552.130(c) and 552.136(c) of the Government Code. The university also states it will release some of the requested information, but claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

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 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which

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1Section 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). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). See id. § 552.136(d), (e).
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 the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find the information that the university has marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the university must withhold the information it has marked under section 552.101 of the Government Code in conjunction with common-law privacy. The university must release the remaining information.

The university also asks this office to issue a previous determination that would permit it to withhold information that identifies an individual’s chosen automobile insurance company under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting a decision under section 552.301 of the Government Code. See Gov’t Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). After due consideration, we have decided to grant the university’s request on this matter. Therefore, this letter ruling authorizes the university to withhold information that identifies an individual’s chosen automobile insurance company under section 552.101 of the Government Code in conjunction with common-law privacy. We note common-law privacy protects the interests of individuals, not those of corporate or other entities, and is a personal right that lapses at an individual’s death. See Open Records Decision Nos. 620 (1993), 272 (1981), 192 (1978). Therefore, this previous determination authorizes the university to withhold information that identifies a living individual’s chosen automobile insurance company. This previous determination is not applicable to information pertaining to a deceased individual or a public or private entity. 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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, this previous determination is not applicable to 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 v. Walker*, 834 S.W.2d 54 (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 university is not required to 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,

[Signature]

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/som

Ref: ID# 734769

Enc. Submitted documents

c: Requestor
(w/o enclosures)