



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 7, 2019

Mr. Richard K. Casner
General Counsel
Lubbock Power & Light
P.O.Box 2000
Lubbock, Texas 79457

OR2019-03682

Dear Mr. Casner:

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# 749423.

The City of Lubbock and Lubbock Power & Light (collectively, the "city") received a request for information pertaining to a specified complaint involving the requestor.¹ You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim 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 information made confidential by judicial decision and the common-law physical safety exception. The Texas Supreme Court has recognized, for the first time, a common-law physical safety exception to required disclosure. *Tex. Dep't of Pub.*

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).

Safety v. Cox Tex. Newspapers, L.P. & Hearst Newspapers, L.L.C., 343 S.W.3d 112, 118 (Tex. 2011). Pursuant to this common-law physical safety exception, “information may be withheld [from public release] if disclosure would create a substantial threat of physical harm.” *Id.* In applying this standard, the court noted “deference must be afforded” law enforcement experts regarding the probability of harm, but further cautioned, “vague assertions of risk will not carry the day.” *Id.* at 119.

The city argues some of the submitted information is excepted under section 552.101 of the Government Code in conjunction with the common-law physical safety exception. The city states, although it is not aware of any specific facts that would indicate an imminent threat of danger to the complainant, the complainant could reasonably fear retaliation for making the complaint and release of the information would needlessly subject the complainant to such a risk. Upon review, we conclude the city has made only vague assertions of risk of harm that could result from the disclosure of any of the information at issue. Thus, the city has not demonstrated release of any of the information at issue would subject anyone to a specific risk of harm. Accordingly, the city may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with the common-law physical safety exception.

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 license plate number it has marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). Section 552.137 is not applicable to an institutional e-mail address, an Internet website address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, or an e-mail address maintained by a governmental entity for one of its officials or employees. The remaining information does not contain an e-mail address. Thus, the city may not withhold any of the remaining information at issue under section 552.137 of the Government Code.

In summary, the city must withhold the license plate number it has marked under section 552.130 of the Government Code. The remaining information must be released.

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,

A handwritten signature in black ink, appearing to read "Michelle Garza", with a long horizontal flourish extending to the right.

Michelle Garza
Assistant Attorney General
Open Records Division

MG/mo

Ref: ID# 749423

Enc. Submitted documents

c: Requestor
(w/o enclosures)