



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 24, 2019

Ms. Shelby Percy
Counsel for the City of Red Oak
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard
Dallas, Texas 75201

OR2019-13893

Dear Ms. Percy:

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# 767399 (ORR# 106781).

The City of Red Oak (the "city"), which you represent, received two requests from different requestors for information pertaining to a specified incident. The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. The city also states it notified an interested party of its receipt of the request for information. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the claimed exception and reviewed the submitted information.

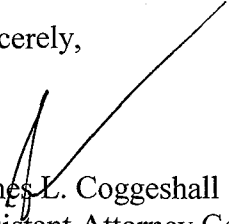
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which 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 the *Industrial Foundation* decision. *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 some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is not confidential under common-law privacy, and the city may not withhold it under section 552.101 on that ground. Therefore, 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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/gw

Ref: ID# 767399

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)