



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 13, 2019

Mr. Cristian Rosas-Grillet
Assistant City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2019-15931

Dear Mr. Rosas-Grillet:

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# 770308 (ORR# W011939-032219).

The City of Laredo (the "city") received a request for information pertaining to compensation that the city employees receive. The city states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. This office has found personal financial information not relating to the financial transaction

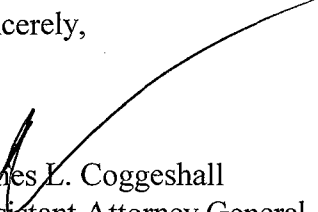
¹We note the city did not comply with the requirements of section 552.301 of the Government Code. See Gov't Code § 552.301(b). Nevertheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301, we will consider the claim of the city under that section.

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 some of the submitted payroll deduction and benefit information, which we have marked, generally satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. However, it is not clear whether this information reflects mandatory participation by the officials at issue or are the officials' voluntary financial decisions. Thus, we must rule conditionally. To the extent the information we have marked reflects the officials' voluntary allocations of salary to optional investment, retirement, or other financial programs offered by the city, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, to the extent the information at issue reflects the officials' mandatory participation in the city's retirement program or benefits paid by the city, the city may not withhold the marked information on that basis. 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/be

Ref: ID# 770308

Enc. Submitted documents

c: Requestor
(w/o enclosures)