



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 23, 2019

Ms. Karen Strand
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2019-23675

Dear Ms. Fernandez:

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# 782509.

The City of Mesquite (the "city") received three requests from the same requestor for e-mail communications involving named individuals during a specified period of time. You state the city has released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.1177, 552.136, and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.1177(a) of the Government Code relates to the humane disposition by a municipality or county of an animal and provides the following:

Except as provided by Subsection (b), information is confidential and excepted from [required public disclosure] if the information relates to the name, address, telephone number, e-mail address, driver's license number, social security number, or other personally identifying information of a person who obtains ownership or control of an animal from a municipality or county making a humane disposition of the animal under a municipal ordinance or an order of the commissioners court.

Act of May 25, 2019, 86th Leg., R.S., H.B. 2828, § 1 (to be codified as Gov't Code § 552.1177(a)). The city asserts the information it marked identifies a person who adopted an animal from the city's municipal animal shelter. We understand the city's municipal animal shelter made a humane disposition of the animal at issue under a municipal ordinance. Upon review, we agree the information at issue is subject to section 552.1177 of the Government Code. Therefore, the city must withhold the information you marked under section 552.1177 of the Government Code.

Section 552.136 of the Government Code provides, "Notwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). You inform us the information you marked consists of a partial debit card number. Accordingly, the city must withhold information you marked under section 552.136 of the Government Code.¹

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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 *Industrial Foundation*. *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 the remaining information the city marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the information you marked under sections 552.1177 and 552.136 of the Government Code. The city must also withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

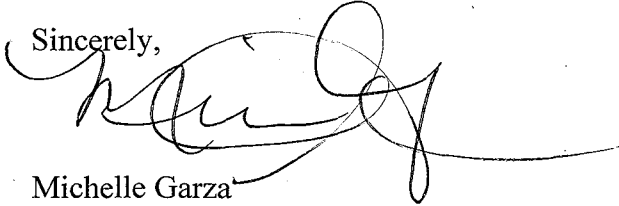
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, 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/be

Ref: ID# 782509

Enc. Submitted documents

c: Requestor
(w/o enclosures)