KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 21, 2020

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2020-01775

Dear Mr. Kopp:

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# 807122 (ORR# W289122).

The City of San Antonio (the "city") received a request for information related to case number 2018-0297773. The city claims some of the submitted information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions the city claims 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." [1] 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 *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See, e.g.*, Open Records Decision Nos. 545 (1990) (common-law privacy protects mortgage payments, assets, bills, and credit history),

[1] The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information). The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). The city seeks to withhold portions of the submitted information under section 552.101 and common-law privacy. However, we note the information the city marked belongs to the requestor's client. Thus, the requestor has a right of access to the information the city seeks to withhold pursuant to section 552.023 of the Government Code, and the city may not withhold the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); ORD 481 at 4.

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 motor vehicle record information we marked under section 552.130 of the Government Code. However, the remaining information the city marked belongs to the requestor's client, and thus pursuant to section 552.023, the city may not withhold any of the remaining information under section 552.130.

Section 552.136 of the Government Code provides, "[n]otwithstanding 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. The city states the identification numbers it marked can be used to obtain goods and services. We therefore conclude the city must withhold the identification numbers it marked under section 552.136 of the Government Code. However, the remaining information the city marked belongs to the requestor's client, and thus pursuant to section 552.023, the city may not withhold any of the remaining information under section 552.136.

In summary, the city must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. The city must withhold the identification numbers it marked under section 552.136 of the Government Code. The city must release the remaining information to this requestor.[2]

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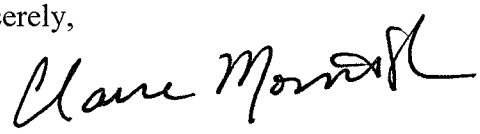
[2] We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); ORD 481 at 4. Thus, if the city receives another request for the same information from a different requestor, the city must again seek a decision from this office.

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 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jxd

Ref: ID# 807122

Enc. Submitted documents

c: Requestor
(w/o enclosures)