



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 11, 2020

Ms. Atalia Anaya
Office Assistant II
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2020-13282

Dear Ms. Anaya:

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# 829961 (ORR# C002137-030620).

The City of Dallas (the "city") received a request for information pertaining to a specified accident. The city represents it is withholding some of the requested information pursuant to Open Records Decision No. 684 (2009) and Open Records Letter Nos. 2011-17075 (2011) and 2017-09757 (2017).¹ The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code.²

¹ Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of seeking a decision from this office. Open Records Letter No. 2017-09757 authorizes the city to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. Open Records Letter No. 2011-17075 is a previous determination issued to the city authorizing it to withhold, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, an originating telephone number of a 9-1-1 caller furnished to the city by a service supplier established pursuant to chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

² We understand the city to raise section 552.136 based on its markings.

We have considered the claimed exception and reviewed the submitted representative sample of information.³

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 the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information, *see* Open Records Decision No. 455 (1987); and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we agree the information that the city has marked under common-law privacy, as well as the information we have marked, satisfy the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the city must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of this chapter, 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). This office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the city must withhold the insurance policy number it has marked under section 552.136 of the Government Code. However, section 552.136 is not applicable to the effective and expiration dates of an insurance policy that it has marked and may not withhold these marked dates on that ground.

In summary, the city must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must also withhold the insurance policy number it has marked under section 552.136 of the Government Code. 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.

³ We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jlbm

Ref: ID# 829961

Enc. Submitted documents

c: Requestor
(w/o enclosures)