



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 20, 2022

Mr. Trenton M. Dietz
Assistant City Attorney
City of Abilene
P.O. Box 60
Abilene, Texas 79604-0060

OR2022-14530

Dear Mr. Dietz:

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# 949277 (ORR# 22-429).

The City of Abilene (the "city") received a request for event number 22012496. The city claims some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted representative sample of information.¹

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 information made confidential by chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). The city indicates it is part of an emergency communication district that is subject to section

¹ 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.

772.318 of the Health and Safety Code. We conclude the city must withhold the telephone numbers and the address we marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of an originating telephone number or address of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. If the information the city marked does not consist of an originating telephone number or address that was provided by a 9-1-1 service supplier, then the city may not withhold the information it marked under section 552.101 on that basis.

Section 552.101 of the Government Code also 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), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information). Upon review, we find some of the remaining information, which we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the city must generally withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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. We note section 552.130 protects personal privacy. Accordingly, the city must generally withhold the motor vehicle record information we marked under section 552.130 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"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. We note section 552.136 also protects personal privacy. Accordingly, the city must generally withhold the insurance policy number we marked under section 552.136 of the Government Code.

However, we note the requestor may be the individual whose information is at issue with respect to the private information we marked. The requestor has a right of access to her own personal financial information, motor vehicle record information, and insurance policy number under section 552.023 of the Government Code. Accordingly, to the extent the information we marked belongs to the requestor, such information may not be withheld from this requestor under section 552.101 in conjunction with common-law privacy, section

552.130, or section 552.136. *See id.* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

In summary, the city must withhold the telephone numbers and the address we marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if they consist of an originating telephone numbers or address of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. The city must generally withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy, the motor vehicle record information we marked under section 552.130, and the insurance policy number we marked under section 552.136 of the Government Code; however, to the extent the information we marked belongs to the requestor, such information may not be withheld from this requestor under section 552.101 in conjunction with common-law privacy, section 552.130, or section 552.136. 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 <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/jm

Ref: ID# 949277

Enc. Submitted documents

c: Requestor
(w/o enclosures)