



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 21, 2022

Ms. June B. Harden  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2022-21321

Dear Ms. Harden:

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# 961381 (PIR No. R012522).

The Office of the Attorney General (the "OAG") received a request for information regarding a certain allegation involving the requestor during a stated time period. The OAG states it will release most of the responsive information with redactions allowed by law, including information subject to section 552.137 of the Government Code in accordance with Open Records Decision No. 684 (2009).<sup>1</sup> The OAG claims portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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

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<sup>1</sup> Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Additionally, this office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See, e.g.*, Open Records Decision No. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information). Upon review, we agree the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the OAG must withhold the information it marked under section 552.101 of the Government Code in conjunction with common-law privacy. The OAG must release the remaining information to this requestor.<sup>2</sup>

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,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/be

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<sup>2</sup> We note the information being released contains information to which the requestor has a right of access. *See* Gov't Code §§ 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), .137(b); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). We note section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117(a)(1) without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See* Gov't Code §§ 552.024, .117(a)(1). Additionally, as previously noted, Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public, under section 552.137 of the Government Code, without the necessity of requesting a decision from this office. Finally, we note Open Records Letter No. 2016-11398 (2016) is a previous determination issued to the OAG authorizing it to withhold employees' dates of birth under section 552.102(a) of the Government Code without the necessity of requesting a decision from this office.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)