



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2022

Ms. Jessika Williams
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2022-25756

Dear Ms. Williams:

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# 965705 (PIR No. R004614-052322).

The City of Fort Worth (the "city") received a request for certain types of reports pertaining to a specified city library during a stated period of time. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.124 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted on behalf of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.124 of the Government Code makes confidential, with certain exceptions that are not applicable here, "[a] record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service[.]" *Id.* § 552.124(a)-(b); *see also* Open Records Decision No. 100 at 3 (1975) (identifying information of library patrons in connection with object of their attentions is confidential by constitutional law). We note only names,

addresses, and other information specifically identifying library patrons may be withheld under section 552.124. *See* Open Records Decision No. 649 at 3 (1996) (confidentiality provisions strictly construed). You state the information at issue identifies persons who requested, obtained, or used a library service. Upon review, we find some of the information at issue identifies individuals who requested, obtained, or used library materials or services. Accordingly, the city must withhold the information we have indicated under section 552.124 of the Government Code.¹ However, we find you have failed to demonstrate the remaining information specifically identifies or serves to identify a person who requested, obtained, or used a library material or service. Therefore, the city may not withhold any portion of the remaining information under section 552.124 of the Government Code.

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. This section 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. We note some of the information at issue pertains to individuals who will be de-identified based on section 552.124; thus, these individuals’ privacy interests are protected, and the city may not withhold information pertaining to the de-identified individuals under section 552.101 on the basis of common-law privacy. Upon review, we find you have failed to demonstrate any of the remaining information is information pertaining to an identified individual that is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the information we have indicated under section 552.124 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.

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

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jxd

Ref: ID# 965705

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)