



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 26, 2022

Ms. Mary Dougherty  
Open Records Attorney  
Texas Department of Insurance  
P.O. Box 12030  
Austin, Texas 78711

OR2022-29691

Dear Ms. Dougherty:

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# 973663 (TDI# R016097).

The Texas Department of Insurance (the "department") received a request for certain information pertaining to specified types of complaints during stated periods of time. You state the department is withholding e-mail addresses subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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." 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

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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 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 an attorney general decision. See ORD 684.

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 also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transactions between individual and governmental body protected under common-law privacy). Upon review, we find the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must release the remaining information.

You request that this office issue a “previous determination” that would permit the department in the future to withhold from disclosure “identifying information of all individuals who are insureds” under section 552.101 of the Government Code in conjunction with common-law privacy without the need of requesting a ruling from our office regarding whether such information can be withheld from disclosure. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, 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,

Chase D. Young  
Assistant Attorney General  
Open Records Division

CDY/mo

Ref: ID# 973663

Enc. Submitted documents

c: Requestor  
(w/o enclosures)