



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 13, 2015

Ms. Captoria Brown  
Paralegal  
Office of the City Attorney  
City of Carrollton  
1945 East Jackson Road  
Carrollton, Texas 75006

OR2015-14170

Dear Ms. Brown:

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# 571073 (City ID# 4912).

The City of Carrollton (the "city") received a request for information related to a specified incident. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. You further state release of this information may implicate the interests of a named individual. Accordingly, you inform us, and provide documentation showing, you notified the named individual of the request for information and of her right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). We have received comments from a representative of the named individual. We have considered the submitted arguments 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." *Id.* § 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 *Industrial Foundation. Id.* at 683. We note the common-law right to privacy is a personal right that “terminates upon the death of the person whose privacy is invaded.” *Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. Civ. App.—Texarkana 1979, writ ref’d n.r.e.); *see also Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145, 147 (N.D. Tex. 1979) (“action for invasion of privacy can be maintained only by a living individual whose privacy is invaded” (quoting RESTATEMENT (SECOND) OF TORTS § 652I (1977))); Attorney General Opinions JM-229 (1984) (“the right of privacy lapses upon death”), H-917 (1976) (“We are . . . of the opinion that the Texas courts would follow the almost uniform rule of other jurisdictions that the right of privacy lapses upon death.”); Open Records Decision No. 272 (1981) (“the right of privacy is personal and lapses upon death”). Thus, information pertaining solely to a deceased individual may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. You and the named individual’s representative both argue the submitted information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Upon review, we find you have failed to demonstrate any portion of the submitted information is information pertaining to a living individual that is highly intimate or embarrassing and of no legitimate public interest. Thus, no portion of the submitted information may be withheld 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 the purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, motor vehicle record information that pertains solely to a deceased individual may not be withheld under section 552.130. *See Moore*, 589 S.W.2d at 491; Attorney General Opinions JM-229 (1984), H-917 (1976); ORD 272. Accordingly, the city must withhold the motor vehicle record information we have marked and indicated under section 552.130 of the Government Code. However, we find none of the remaining information at issue consists of motor vehicle record information subject to section 552.130. Accordingly, none of the remaining information at issue may be withheld under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the city must release the remaining information.<sup>1</sup>

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<sup>1</sup>We note the information being released contains the requestor’s e-mail address, which is excepted from disclosure under section 552.137 of the Government Code. The requestor has a right of access to her e-mail address under section 552.137(b) of the Government Code. *See Gov’t Code* § 552.137(b); Open Records Decision No. 481 at 7 (1987) (privacy theories not implicated when individual requests information concerning himself). We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold an e-mail address of a member of the public under section 552.137 without requesting a decision. Thus, should the city receive another request for the submitted information from a different requestor, the city is authorized to withhold the requestor’s e-mail address without requesting another ruling.

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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 571073

Enc. Submitted documents

c: Requestor  
(w/o enclosures)