



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 3, 2017

Ms. Annette Henderson
Public Information Coordinator
Records & Information Coordinator
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2017-09446

Dear Ms. Henderson:

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# 656253 (Fort Worth Ref. No. W059113-021917).

The City of Fort Worth (the "city") received a request for a specified incident report. The city released information responsive to the request but made redactions as permitted by section 552.130 of the Government Code without requesting a decision from this office.¹ *See* Gov't Code § 552.130(c). Pursuant to section 552.130(d), the requestor has asked this office to review the information and render a decision as to whether it is excepted from disclosure under section 552.130. *Id.* § 552.130(d). We have considered the city's position and reviewed the submitted information.

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 id.* § 552.130. Accordingly, the city must generally

¹We understand the city also redacted a public citizen's date of birth in accordance with a previous determination issued to the city in Open Records Letter No. 2016-00620 (2016), which authorizes the city to redact that type of information without a ruling from this office.

continue to withhold the motor vehicle record information you have previously withheld, as well as the additional information we have marked, under section 552.130 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.”² *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The court of appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Upon review, we find the city must generally withhold the date of birth you previously withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

However, the requestor may be an authorized representative of the individual whose information is at issue. As such, the requestor, if acting as an authorized representative of the individual whose information is at issue, has a right of access to that individual’s information. *See generally* Gov’t Code § 552.023; ORD 481 at 4 (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, we rule conditionally. To the extent the requestor is acting as the individual’s authorized representative, the city must release the information pertaining to the individual to the requestor. To the extent the requestor is not acting as the individual’s authorized representative, the city must continue to withhold the information you previously withheld, as well as the additional information we have marked, under section 552.130 and the information you previously withheld under section 552.101 in conjunction with common-law privacy.

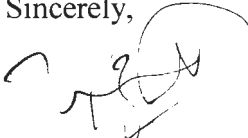
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480(1987), 470 (1987).

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 "Joseph Behnke", with a large, sweeping flourish above the name.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 656253

Enc. Submitted documents

c: Requestor
(w/o enclosures)