



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 22, 2017

Ms. Cynthia Trevino  
Counsel for City of Pflugerville  
Denton Navarro Rocha Bernal Hyde & Zech, P.C.  
2500 West William Cannon, Suite 609  
Austin, Texas 78745-5320

OR2017-19103

Dear Ms. Trevino:

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# 671892 (ORR# W005678).

The City of Pflugerville (the "city"), which you represent, received a request for the contact information of the individual who adopted a specified dog from the city's animal shelter. The city states it will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). 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 seeking a decision from this office.

Initially, we note some of the submitted information is not responsive to the request for information because it does not consist of the contact information of the individual who ultimately adopted the dog at issue. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information, which we have marked, in response to this request.<sup>2</sup>

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. This exception 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. Upon review we find the city has failed to establish any of the responsive information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the responsive information is not confidential under common-law privacy, and the city may not withhold any of it under section 552.101 on that ground.

The city informs us some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. Thus, the city must release the submitted responsive information, but may only release any copyrighted information in accordance with copyright law.

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

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<sup>2</sup>As our ruling is dispositive, we do not address the arguments of the city to withhold this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/bw

Ref: ID# 671892

Enc. Submitted documents

c: Requestor  
(w/o enclosures)