



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 12, 2017

Ms. Dawn Brackett
Counsel for the Town of Addison
Messer, Rockefeller & Fort, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034

OR2017-20773

Dear Ms. Brackett:

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# 675033 (Reference No. W004823-062317).

The Town of Addison (the "town"), which you represent, received a request for information pertaining to a specified motor vehicle accident. You state you have released some information. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Section 552.101 encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.118 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 3.3 million and makes confidential the originating telephone numbers and addresses of 9-1-1 callers provided by a service supplier. *See* Health & Safety Code §§ 772.104, .118; *see also* Open Records Decision No. 649 at 2 (1996). You argue the information you have marked should be withheld under section 772.118. The town is in Dallas County, which we understand has a population over 3.3 million, and you inform us the town is part of an emergency communication district established under section 772.118. Upon review, we find the information you marked consists of the originating telephone number and address of a 9-1-1 caller furnished by a service supplier. Therefore, the town must withhold the telephone number and address you

have marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code.

Section 552.101 of the Government Code also 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.). Further, the requestor has a right of access to his client's date of birth pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (“[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the town must withhold the date of birth not belonging to the requestor’s client 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. Gov’t Code § 552.130. We note, however, because section 552.130 is designed to protect the privacy of individuals, the requestor has a right of access to his client’s motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. We note the submitted video recording contains motor vehicle information not belonging to the requestor’s client. Further, you state the town does not have the technological capability to redact the motor vehicle record information from the submitted video recording. *See* Open Records Decision No. 364 (1983). Accordingly, the town must withhold the information we have marked and the submitted video recording in its entirety under section 552.130 of the Government Code.

In summary, the town must withhold the telephone number and address you have marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code. The town must withhold the date of birth not belonging to the requestor’s client under section 552.101 of the Government Code in conjunction with common-law privacy. The town must withhold the information we have marked and the submitted video recording in its entirety under section 552.130 of the Government Code. The town must release the remaining information.¹

¹We note the information being released in this instance includes information that is confidential with respect to the general public. *See* Gov’t Code § 552.023(a); ORD 481 at 4. Because such information is confidential with respect to the general public, if the town receives another request for this information from a different requestor, then the town should again seek a ruling from this office.

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

Sincerely,



Jahna Ward
Attorney
Open Records Division

JW/som

Ref: ID# 675033

Enc. Submitted documents

c: Requestor
(w/o enclosures)