



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2017

Mr. Christopher K. Austria
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2017-21324

Dear Mr. Austria:

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# 675885 (ORR No. W063167).

The City of Fort Worth (the "city") received a request for a specified report involving a named individual. You claim 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. 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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). The court of appeals has

concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See 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.). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the submitted information must be withheld in its entirety to protect the individual's privacy.

In this instance, although you claim the submitted information is protected in its entirety by common-law privacy, you have not demonstrated, nor does it otherwise appear, this is a situation in which this information must be withheld in its entirety on that basis. Upon review, however, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the city has failed to demonstrate any of the remaining information is highly intimate or embarrassing and not of legitimate concern to the public. Therefore, the city may not withhold any of the remaining information under section 552.101 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 a personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ Gov't Code § 52.130. Upon review, we find the city must withhold the motor vehicle record information we have marked under section 52.130 of the Government Code.

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle record information we have marked under section 52.130 of the Government Code. The remaining information must be released.²

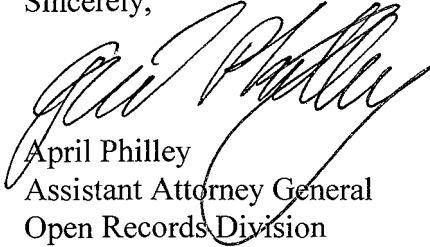
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the information being released contains the requestor's date of birth and social security number, to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a).

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,



April Philley
Assistant Attorney General
Open Records Division

AP/sb

Ref: ID# 675885

Enc. Submitted documents

c: Requestor
(w/o enclosures)