



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 22, 2017

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

OR2017-21733

Dear Ms. Bracket:

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# 679395 (ORR ID Nos. 4864 & W004920).

The Town of Addison (the "town"), which you represent, received two requests from different requestors for information pertaining to a specified incident. You state the town has released some of the requested information. You claim some of the submitted information is 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 552.130 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(a). Upon review, we find the submitted video recordings contains motor vehicle record information. In this instance, you state the town does not possess the technological capability to redact information from video files. Thus, we agree the town must withhold the submitted video recordings in their entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983). We also find the town must withhold the motor vehicle record information we have marked in the submitted report under section 552.130 of the Government Code.

However, the remaining information you marked is not subject to section 552.130, and the town may not withhold it on that basis.

Section 552.101 of the Government Code exempts 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 information made confidential by other statutes, such as chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 1.5 million. *See* Health & Safety Code § 772.204.

The town is in Dallas County, which we understand has a population of over 1.5 million, and you indicate the town is part of an emergency communication district that is subject to section 772.218 of the Health and Safety Code. Upon review, we find the information we marked consists of the originating address of a 9-1-1 caller furnished by a service supplier. Therefore, the town must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. You also assert the submitted audio recording contains the originating phone number and address of a 9-1-1 caller, which are confidential under section 772.218. Upon review, however, we note the phone number and address contained in the submitted audio recording were provided directly by the 9-1-1 caller at issue. Thus, we find no portion of the submitted audio recording consists of the originating telephone number or address of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. Accordingly, no portion of the submitted audio recording may be withheld under section 552.101 in conjunction with section 772.218 of the Health and Safety Code.

Section 552.101 of the Government Code also 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 highly intimate or 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). This office has also found personal financial information not relating to the financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992), 545 (1990) (deferred

compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). 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 some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the town must withhold the information we marked and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

The remaining information includes information that is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Accordingly, the town must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

In summary, the town must withhold the submitted video recordings in their entirety and the additional information we marked under section 552.130 of the Government Code. The town must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. The town must withhold the information we marked and all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The town must withhold the insurance policy numbers we marked under section 552.136 of the Government Code. The town must release the remaining information.

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

---

<sup>1</sup>The 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).

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 "N. A. Ybarra". The signature is fluid and cursive, with the first name "N." and the last name "Ybarra" clearly visible.

Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/bw

Ref: ID# 679395

Enc. Submitted documents

c: Requestor  
(w/o enclosures)