



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 2, 2017

Ms. Lola Dada-Olley  
Assistant City Attorney  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2017-22459

Dear Ms. Dada-Olley:

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# 683790 (File No. 17-100).

The City of Plano (the "city") received a request for information pertaining to individuals who requested to take or were required by a judge to take a defensive driving course during a specified time period. 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 "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. We note an individual's telephone number is generally not private information under common-law privacy. *See* Open Records Decision No. 554 at 3 (1990) (disclosure of person's name, address, or telephone number not invasion of privacy). Upon review, we find the city has not demonstrated any of the submitted information is highly intimate or embarrassing and not of legitimate public concern. Thus, the city may not withhold any portion of the submitted information under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses the doctrine of constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). The first type protects an individual's autonomy within "zones of privacy" which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common law doctrine of privacy; the information must concern the "most intimate aspects of human affairs." *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). After review of the information at issue, we find the city has failed to demonstrate any portion of the information falls within the zones of privacy or implicates an individual's privacy interests for purposes of constitutional privacy. Therefore, the city may not withhold any of the information at issue under section 552.101 on the basis of constitutional privacy. As you raise no further exceptions to disclosure, the city must release the submitted 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/gw

Ref: ID# 683790

Enc. Submitted documents

c: Requestor  
(w/o enclosures)