



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 19, 2019

Mr. Lance Kennedy
Counsel for the Town of Addison
Messer, Rockefeller & Fort, P. L. L. C.
6317 Preston Road, Suite 200
Frisco, Texas 75034

OR2019-04657

Dear Mr. Kennedy:

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# 757738 (Ref. No. 6105).

The Town of Addison (the "town"), which you represent, received a request for 9-1-1 calls or call notes pertaining to a specified incident. You state you have released some information. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions 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 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 is applicable to emergency 9-1-1 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). This sections makes the originating telephone numbers and addresses of 9-1-1 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than 3.3 million. The department states it is part of an emergency communication district established under section 772.118 of the Health and Safety Code. Upon review, we conclude the department must withhold the address you have marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code if the address consists of the originating address furnished by a 9-1-1 service supplier. If the marked information does not consist of the originating

address provided by a 9-1-1 service supplier, it may not be withheld under section 552.101 in conjunction with section 772.118.

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 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). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). 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.). Upon review, we conclude some of the submitted information meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the town must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.¹

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See* Gov't Code § 552.130. Accordingly, except for the information we have marked for release, the town must withhold the motor vehicle record information you have marked and the additional motor vehicle record information we have marked under section 552.130 of the Government Code. However, we find you failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the town may not withhold the information we have marked for release under section 552.130 of the Government Code.

Section 552.136(b) 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." *Id.* § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has concluded

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, the town must withhold the insurance policy numbers you have marked under section 552.136 of the Government Code.

In summary, the department must withhold the address you have marked under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code if the address consists of the originating address furnished by a 9-1-1 service supplier. The town must withhold all public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. Except for the information we have marked for release, the town must withhold the motor vehicle record information you have marked and the additional motor vehicle record information we have marked under section 552.130 of the Government Code. The town must withhold the insurance policy numbers you have 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, 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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/jxd

Ref: ID# 757738

Enc. Submitted documents

c: Requestor
(w/o enclosures)