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ATTORNEY GENERAL OF TEXAS

April 10, 2019

Mr. Lance Kennedy
Counsel to the City of Van Alstyne
Messer, Rockefeller & Fort, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034

OR2019-09686

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# 758746 (ORR# VA011819NM).

The City of Van Alstyne (the "city"), which you represent, received a request for information pertaining to a specified accident. You state the city will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note this office issued Open Records Letter No. 2017-24522 (2017), a previous determination authorizing the city to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). However, we note the requestor has a right of access to his client's private information pursuant to section 552.023 of the Government Code, and the city may not withhold the requestor's client's date of birth from him under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to 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). Nonetheless, the city must continue to withhold the date of birth that does not belong to the requestor's client under section 552.101 of the Government Code in conjunction with common-law privacy.

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 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. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *See* Open Records Decision No. 649 (1996). You inform us the city is part of an emergency communication district that is subject to section 772.318 of the Health and Safety Code.¹ You have marked a telephone number that the city seeks to withhold. We conclude the city must withhold the telephone number you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code if it consists of the originating telephone number furnished by a 9-1-1 service supplier. If the marked telephone number does not consist of the originating telephone number provided by a 9-1-1 service supplier, the city may not withhold it under section 552.101 in conjunction with section 772.318.

Section 552.130 of the Government Code excepts from public 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. We note, because section 552.130 protects privacy interests, 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. Accordingly, with the exception of the information we marked for release, the city must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. Additionally, upon review, we find the submitted video recordings contain confidential motor vehicle record information. You state the city does not have the technological capability to redact the motor vehicle record information from the recordings. Accordingly, the city must also withhold the submitted recordings in their entireties under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, the city must continue to withhold the date of birth that does not belong to the requestor's client under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the telephone number you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health

¹Although you refer to section 772.310 of the Health and Safety Code in your brief to this office, we understand you to raise section 772.318 of the Health and Safety Code based on the substance of your arguments.

and Safety Code if it consists of the originating telephone number furnished by a 9-1-1 service supplier. With the exception of the information we marked for release, the city must withhold the motor vehicle record information you marked and the submitted recordings in their entireties under section 552.130 of the Government Code. The city must release the remaining information.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.

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,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/gw

Ref: ID# 758746

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); *see also* ORD 481 at 4. We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). As noted above, Open Records Letter No. 2017-24522 is a previous determination issued to the city authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.