



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 28, 2019

Ms. Alicia K. Kreh
Counsel for the City of Saginaw
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2019-17912

Dear Ms. Kreh:

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# 772653 (RID-303-2019).

The City of Saginaw (the "city"), which you represent, received a request for all information pertaining to a specified incident. The city states it is withholding motor vehicle record information pursuant to section 552.130(c) of the Government Code and social security numbers pursuant to section 552.147(b) of the Government Code.¹ The city further states it is withholding certain information pursuant to Open Records Decision No. 684 (2009).² The city claims 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.

¹Section 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). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the submitted video recordings contain information subject to section 552.130. You state the city does not have the technological capability to redact the motor vehicle record information from the recordings. Accordingly, the city 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 further note the submitted audio recording contains information subject to section 552.130 of the Government Code. The separate audio recording is not intertwined with a video recording. As previously noted, you state the city does not have the technological capability to redact information from the submitted recordings. However, because the city had the capability to copy the separate audio recording in order to submit the requested information for our review, we believe the city has the capacity to produce a copy of only the non-confidential portions of the audio recordings. Therefore, the city may not withhold the separate audio recording in its entirety. Nevertheless, the city must withhold the information we have indicated in the audio recording under section 552.130 of the Government Code.

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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. 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.). Thus, the city must withhold the public citizens' dates of birth it marked in the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the submitted video recordings in their entirety, as well as the information we have indicated in the audio recording, under section 552.130 of the Government Code. The city must withhold the public citizens' dates of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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,

A handwritten signature in black ink that reads "Kimbell Kesling". The signature is written in a cursive, flowing style.

Kimbell Kesling
Attorney
Open Records Division

KK/eb

Ref: ID# 772653

Enc. Submitted documents

c: Requestor
(w/o enclosures)