



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 30, 2019

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

OR2019-30651

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# 794033 (PIR# 423-19).

The Town of Flower Mound (the "town"), which you represent, received a request for building permits relating to the requestor's home. You inform us the town will redact information pursuant to sections 552.130(c) and 552.147(b) of the Government Code and Open Records Decision 684 (2009).<sup>1</sup> You claim some of 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 from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You argue some of the submitted information is confidential under section 552.101 in conjunction with section 214.907(b) of the Local Government Code. Section

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<sup>1</sup> 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). 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 under the Act. *Id.* § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general opinion.

214.907(b) provides, "A municipality may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program." Act of May 21, 2019, 86<sup>th</sup> Leg., R.S., H.B. 852, § 1 (to be codified as Local Gov't Code § 214.907(b)). Although you seek to withhold the information at issue under section 214.907(b), we note this section is not a confidentiality provision, but rather provides limitations on the types of information a municipality may consider in determining the amount of certain building permit and inspection fees. *See id.* § 1 (to be codified as Local Gov't Code § 214.907(a)); *see also* Open Records Decision Nos. 478 at 2 (1987) (as a general rule, statutory confidentiality requires express language making information confidential), 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). Accordingly, the town may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with section 214.907(b) of the Local Government Code. The town 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/be

Ref: ID# 794033

Enc. Submitted documents

c: Requestor  
(w/o enclosures)