



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2019

Ms. Rita Monterrosa
Litigation Paralegal
City of Abilene
P. O. Box 60
Abilene, Texas 79604-0060

OR2019-35049

Dear Ms. Monterrosa:

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# 801298 (ORR# 19-619).

The City of Abilene (the "city") received a request for information pertaining to a specified animal. The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.1177 of the Government Code.¹ We have considered the claimed exceptions 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. 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 Third 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.).

¹ We note the city did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b). Nevertheless, sections 552.101, 552.130, and 552.1177 of the Government Code can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987). Thus, we will consider whether the submitted information must be withheld under the Act on those grounds.

However, the requestor has a right of access to her client's date of birth pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, the city may not withhold the submitted date of birth, which pertains to the requestor's client, under section 552.101 in conjunction with common-law privacy.

Section 552.1177(a) of the Government Code relates to the humane disposition by a municipality or county of an animal and provides the following:

Except as provided by Subsection (b), information is confidential and excepted from [required public disclosure] if the information relates to the name, address, telephone number, e-mail address, driver's license number, social security number, or other personally identifying information of a person who obtains ownership or control of an animal from a municipality or county making a humane disposition of the animal under a municipal ordinance or an order of the commissioners court.

Gov't Code § 552.1177(a). The city asserts some of the submitted information identifies a person who adopted an animal from the city's municipal animal shelter. The city also represents its municipal animal shelter made a humane disposition of the animal at issue under a municipal ordinance. Upon review, we conclude the city must withhold the information we have marked under section 552.1177 of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.1177 of the Government Code. The city must withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining information.²

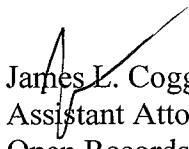
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 <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

² Because the requestor has a special right of access to some of the information being released, the city must again seek a decision from this office if it receives another request for the same information from another requestor.

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 801298

Enc. Submitted documents

c: Requestor
(w/o enclosures)