



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 19, 2020

Ms. Leticia Brysch
City Clerk
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR2020-08693

Dear Ms. Brysch:

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# 818806 (ORR# 16587).

The City of Baytown (the "city") received a request for information related to a specified animal. The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions the city claims 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 section 826.0311 of the Health and Safety Code, which states, in relevant part, the following:

(a) Information that is contained in a municipal or county registry of dogs and cats under Section 826.031 that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered dog or cat is confidential and not subject to disclosure under [the Act]. The information contained in the registry may not include the social security number or the driver's license number of the owner of the registered animal.

(b) The information may be disclosed only to a governmental entity or a person that, under a contract with a governmental entity, provides animal control services or animal registration services for the governmental entity for purposes related to the protection of public health and safety. A governmental entity or person that receives the information must maintain

the confidentiality of the information, may not disclose the information under [the Act], and may not use the information for a purpose that does not directly relate to the protection of public health and safety.

Id. § 826.0311(a), (b). The city informs us it uses Shelter Pro animal control software to serve as its pet registration, case management, adoption, and licensing program. The city also states some of the submitted information, which the city marked, was collected as part of the pet registration and adopting process through this software. Based on these representations and our review, we find the city must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code.

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. 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.). However, the information the city seeks to withhold on this basis relates to an individual who has been de-identified and whose privacy interest is thus protected. Thus, we find the city has not demonstrated any of the remaining information at issue is highly intimate or embarrassing and not of legitimate public concern. Accordingly, the city may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

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 Gov't Code* § 552.130. Accordingly, the city must withhold the motor vehicle record information it marked under section 552.130 of the Government Code.

In summary, the city must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code. The city must withhold the motor vehicle record information it marked under section 552.130 of the Government Code. 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 <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,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 818806

Enc. Submitted documents

c: Requestor
(w/o enclosures)