



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 6, 2020

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

OR2020-16936

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# 834736.

The Town of Flower Mound (the "town"), which you represent, received a request for information pertaining to a specified accident. The town 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 claimed exception 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 information subject to chapter 550 of the Transportation Code. Section 550.065 applies only to a written report of an accident required under section 550.061, 550.062, or 601.004. Transp. Code § 550.065(a)(1). Chapter 550 requires the creation of a written report when the accident resulted in injury to or the death of a person or damage to the property of any person to the apparent extent of \$1,000 or more. *Id.* §§ 550.061 (operator's accident report), .062 (officer's accident report). An accident report is privileged and for the confidential use of the Texas Department of Transportation or a local governmental agency of Texas that has use for the information for accident prevention purposes. *Id.* § 550.065(b). However, a governmental entity shall release an accident report in accordance with subsections (c) and (c-1). *Id.*

§ 550.065(c), (c-1). Section 550.065(c) provides a governmental entity shall release an accident report to a person or entity listed under this subsection. *Id.* § 550.065(c).

We are unable to determine whether the requestor is a person listed under section 550.065(c). Thus, we must rule conditionally. If the requestor is a person listed under section 550.065(c) of the Transportation Code, then the town must release the CR-3 accident report in its entirety pursuant to section 550.065(b) of the Transportation Code. If the requestor is not a person listed under section 550.065(c), then the town must withhold the report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. Nevertheless, section 550.065(c-1) requires the town to create a redacted accident report that may be requested by any person. *Id.* § 550.065(c-1). The redacted accident report may not include the information listed in subsection (f)(2). *Id.* Therefore, if the requestor is not a person listed under section 550.065(c), then the town must release the redacted accident report pursuant to section 550.065(c-1) of the Transportation 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 the *Industrial Foundation* decision. *Id.* at 683. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). We agree the remaining information that the town has marked under common-law privacy satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Thus, the town must generally withhold the remaining information it has indicated under section 552.101 of the Government Code in conjunction with common-law privacy. However, the requestor may represent one of the individual's whose information is at issue. Section 552.023 of the Government Code provides a governmental body may not deny access to a person or a person's representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. Gov't Code § 552.023(a); *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, if the requestor represents this individual, then the requestor has a right of access to this individual's private information pursuant to section 552.023 of the Government Code, and the town may not withhold information pertaining to that individual 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. The town must generally withhold the remaining information it has indicated under section 552.130 of the Government Code. However, section 552.130 protects personal privacy. Thus, if the requestor represents the individual at issue, then the requestor has a right of access to this individual's information pursuant to section 552.023 of the Government Code, and the town may not withhold information pertaining to that individual under section 552.130.

In summary, if the requestor is a person listed under section 550.065(c) of the Transportation Code, then the town must release the CR-3 accident report in its entirety pursuant to section 550.065(b) of the Transportation Code. If the requestor is not a person listed under section 550.065(c), then the town must withhold the submitted accident report under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, but release the redacted accident report pursuant to section 550.065(c-1) of the Transportation Code. The town must withhold the remaining information it has indicated under section 552.101 of the Government Code in conjunction with common-law privacy and under section 552.130 of the Government Code, unless the requestor has a right of access to it pursuant to section 552.023 of the Government Code. The town 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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/be

Ref: ID# 834736

Enc. Submitted documents

c: Requestor  
(w/o enclosures)