



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2020

Ms. Atalia Anaya
Office Assistant II
Communications Division
City of Dallas
1500 Marilla Street, Room L1CS
Dallas, Texas 75201

OR2020-21410

Dear Ms. Anaya:

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# 842509 (ORR# C003230-042820).

The City of Dallas (the "city") received a request for information pertaining to a specified incident. The city informs us it is withholding some of the requested information pursuant to Open Records Letter Nos. 2011-17075 (2011) and 2017-09757 (2017).¹ The city indicates it will also withhold information pursuant to section 552.136(c) of the Government Code.² The city states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections

¹ Open Records Letter No. 2011-17075 is a previous determination issued to the city authorizing it to withhold, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code, an originating telephone number of a 9-1-1 caller furnished to the city by a service supplier established pursuant to chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision. See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). Open Records Letter No. 2017-09757 authorizes the city to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

² Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. See Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). See *id.* § 552.136(d), (e).

552.101 and 552.130 of the Government Code.³ 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, 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. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information that the city seeks to withhold under common-law privacy is not confidential on that ground. Therefore, the city may not withhold this information, which we have marked for release, under section 552.101.

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. Upon review, we find section 552.130 is not applicable to some of the information that the city seeks to withhold pursuant to that section. Therefore, the city may not withhold this information, which we have marked for release, on that ground. However, we agree the city must withhold the remaining information it has marked, as well as the information we have marked, under section 552.130 of the Government Code.

In summary, with the exception of the information we have marked for release, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the information 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

³ We understand the city to raise section 552.130 based on its markings.

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# 842509

Enc. Submitted documents

c: Requestor
(w/o enclosures)