



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 5, 2020

Ms. Angelique Soto  
City Secretary  
City of South Padre Island  
4601 Padre Boulevard  
South Padre Island, Texas 78597

OR2020-27795

Dear Ms. Soto:

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# 853017 (PIR No. 20-0810-10).

The City of South Padre Island (the "city") received a request for certain information pertaining to a specified incident. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code excepts from public disclosure 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. *See* Gov't Code § 552.130. Upon review, we find some of the submitted video recordings contain motor vehicle record information subject to section 552.130. You state the city lacks the technological capability to redact the confidential information in the video recordings at issue. Accordingly, the city must withhold (1) the entireties of the video recordings we indicated and (2) the motor vehicle record information we indicated under section 552.130 of the Government Code.<sup>1</sup> *See* Open Records Decision No. 364 (1983). However, you have failed to demonstrate any of the remaining information at issue is subject to section 552.130. Thus, the city may not withhold any of the remaining information under section 552.130 of the Government Code.

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this 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 doctrine of the common-law 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.). As noted above, the city states it does not possess the technological capability to redact from video files. Thus, the city must withhold the information we indicated under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information at issue is not highly intimate or embarrassing and not of legitimate public interest. Thus, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold (1) the entireties of the video recordings we indicated and (2) the motor vehicle record information we indicated under section 552.130 of the Government Code. The city must withhold the information we indicated under section 552.101 of the Government Code in conjunction with common-law privacy. 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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jm

Ref: ID# 853017

Enc. Submitted documents

c: Requestor  
(w/o enclosures)