



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 10, 2020

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

OR2020-28160

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# 853019 (PIR# 20-0709-04).

The City of South Padre Island (the "city") received a request for information pertaining to a specified motor vehicle accident, including any reports and photographs. 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.

Initially, we note you have only submitted video and audio recordings pertaining to the specified motor vehicle accident. To the extent any other responsive information existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See Gov't Code* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 some of the submitted video recordings, which we have indicated, contain confidential motor vehicle record information. In this instance, you state the city does not possess the technological capability to redact information from video files. Thus, we agree the city must withhold the entireties of the video recordings we indicated under section 552.130 of the Government Code.¹ *See* Open Records Decision No. 364 (1983). However, we find

¹ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

the remaining information does not contain motor vehicle record information subject to section 552.130 of the Government Code. Therefore, the city may not withhold any portion of the remaining information under section 552.130.

Section 552.101 of the Government Code excepts “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 *Industrial Foundation*. *Id.* at 683. Upon review, we find the city has failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the city may not withhold the remaining information under section 552.101 in conjunction with common-law privacy.

In summary, the city must withhold the entireties of the video recordings we indicated 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,

Meagan Hunter
Assistant Attorney General
Open Records Division

MH/rm

Ref: ID# 853019

Enc. Submitted documents

c: Requestor
(w/o enclosures)