



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 22, 2020

Ms. Stephanie N. Neal
Assistant City Attorney
Office of the City Attorney
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2020-32121

Dear Ms. Neal:

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# 858851 (Incident No. 20068198).

The City of Mesquite (the "city") received a request for information pertaining to a specified incident. The city states it will release some information. The city claims portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.136 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 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.). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 600 (1992) (employee's

designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we conclude the information we indicated meets the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note, however, the requestor is the authorized representative of one of the individuals whose privacy interest is at issue and has a special right of access under section 552.023 of the Government Code to the information pertaining to this individual that would otherwise be withheld to protect his privacy. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the information pertaining to the requestor's client, the city must withhold the information we indicated under section 552.101 of the Government Code 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. We note section 552.130 protects privacy interests. Accordingly, the requestor has a right of access to her client's motor vehicle record information pursuant to section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); ORD 481 at 4. However, the city must withhold the visual and verbal license plate numbers, visual driver's license information, and registration information not belonging to the requestor's client under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Accordingly, the city must withhold the insurance policy numbers under section 552.136 of the Government Code.

In summary, with the exception of the information pertaining to the requestor's client, 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 withhold the visual and verbal license plate numbers, visual driver's license information, and registration information not belonging to the requestor's client under section 552.130 of the Government Code. The city must withhold the insurance policy numbers under section 552.136 of the Government Code. The remaining information must be released.

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,

Chase D. Young
Attorney
Open Records Division

CDY/jxd

Ref: ID# 858851

Enc. Submitted documents

c: Requestor
(w/o enclosures)