



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 9, 2022

Ms. Alicia K. Kreh
Counsel for Town of Flower Mound
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2022-07147

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# 937476.

The Town of Flower Mound (the "town"), which you represent, received a request for information pertaining to a specified incident involving a named individual. You claim some of 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 552.101 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 common-law right of 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 court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). Thus, the town must withhold the date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration,

or a personal identification document issued by an agency of this state or another state or country. Gov't Code § 552.130(a). We note section 552.130 protects personal privacy. As such, the requestor, if acting as the named individual's authorized representative, has a right of access to the named individual's motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, to the extent the requestor is acting as the named individual's authorized representative, the town must release to the requestor the information pertaining to the named individual but must withhold the remaining information you marked, and the additional information we marked, under section 552.130 of the Government Code. To the extent the requestor is not acting as the named individual's authorized representative, the town must withhold all of the marked motor vehicle record information under section 552.130 of the Government Code.

In summary, the town must withhold the date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the requestor is acting as the named individual's authorized representative, the town must release to the requestor the information pertaining to the named individual but must withhold the remaining information you marked, and the additional information we marked, under section 552.130 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,

Jahnna Ward
Assistant Attorney General
Open Records Division

JW/mo

Ref: ID# 937476

Enc. Submitted documents

c: Requestor
(w/o enclosures)