



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

April 28, 2022

Mr. Jon Thatcher  
City Attorney  
City of Fate  
P.O. Box 1591  
Fate, Texas 75132

OR2022-12160

Dear Mr. Thatcher:

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# 941935.

The City of Fate (the "city") received a request for a specified incident report. You state the city released information to the requestor, but made redactions as permitted by section 552.130(c) of the Government Code without requesting a decision from this office. Pursuant to section 552.130(d), the requestor has asked this office to review the information redacted by the city and render a decision as to whether it is excepted from disclosure under section 552.130(a), of the Government Code. We note the city also claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the city's position and reviewed the 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 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.). We note an individual’s name, address, and phone number are generally not private information under common-law privacy. *See* Open Records Decision No. 455 at 7 (home addresses and telephone numbers not protected under privacy). We note the requestor has a right of access to information pertaining to herself that would otherwise be confidential under common-law privacy. *See* Gov’t Code § 552.023(a) (“a person or person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to a person and that is 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 herself). Accordingly, the city must withhold the date of birth not belonging to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have failed to demonstrate the remaining information, which we marked for release, is highly intimate or embarrassing and not of legitimate public concern. Thus, none of the remaining information may be withheld under section 552.101 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. Gov’t Code § 552.130. We note, however, because section 552.130 is designed to protect the privacy of individuals, the requestor has a right of access to her motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD 481 at 4. Accordingly, the city must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code.

In summary, the city must withhold the date of birth not belonging to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code. The city must release the remaining information.<sup>1</sup>

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

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<sup>1</sup> We note the requestor has a right of access to some of the information being released in this instance. *See* Gov’t Code § 552.023(a); ORD 481 at 4.

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/be

Ref: ID# 941935

Enc. Submitted documents

c: Requestor  
(w/o enclosures)