



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 27, 2022

Ms. Amanda K. Davis  
Counsel for the City of McKinney  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2022-18466

Dear Ms. Davis:

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# 956139 (ORR# P022732).

The City of McKinney (the "city"), which you represent, received a request for a specified incident report. The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 the *Industrial Foundation* decision. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). 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.). The city must withhold the submitted dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. We also find the information that the city has marked under common-law privacy satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the city must

also withhold the information it has marked 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.<sup>1</sup> See Gov't Code § 552.130. The city must withhold the submitted copy of a driver's license, as well as the driver's license number and issuing state in the remaining information, under section 552.130 of the Government Code.

In summary, the city must withhold the submitted dates of birth and the information it has marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must also withhold the submitted copy of a driver's license, as well as the driver's license number and issuing state in the remaining information, 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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/mo

Ref: ID# 956139

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).