



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Mr. Robert Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2022-27179

Dear Mr. Ray:

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# 970683 (Request No. PD-2022-1064).

The City of Longview (the "city") received a request for information pertaining to a specified incident. 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, 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. 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.). Upon review, we find the information at issue satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses section 771.061(a) of the Health and Safety Code, which makes confidential “[i]nformation that a service provider of communications service is required to furnish to a governmental entity . . . in providing 9-1-1 service” and “[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing 9-1-1 service.” Health & Safety Code § 771.061(a). The city states the information you marked was used or maintained for the purpose of providing 9-1-1 service and was obtained from a third-party communications service provider. Based upon these representations, we agree the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 771.061(a) of the Health and Safety Code.

Section 552.130 of the Government Code excepts from public disclosure 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. *See Gov't Code* § 552.130. Accordingly, with the exception of the information we marked for release, the city must withhold the motor vehicle record information you marked under section 552.130 of the Government Code. However, we find the information we marked for release does not consist of motor vehicle record information subject to section 552.130. Thus, the city may not withhold the information we marked for release under section 552.130 of the Government Code.

In summary, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 771.061(a) of the Health and Safety Code. With the exception of the information we marked for release, the city must withhold the motor vehicle record information you marked we marked 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jxd

Ref: ID# 970683

Enc. Submitted documents

c: Requestor
(w/o enclosures)