



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 5, 2022

Ms. Selena Treviño
Public Information Coordinator
City of South Padre Island
4601 Padre Boulevard
South Padre Island, Texas 78597

OR2022-30698

Dear Ms. Treviño:

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# 976660 (PIR# 22-0714-04).

The City of South Padre Island (the "city") received a request for information related to a specified incident. You state you have released some information to the requestor. You claim 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. This section 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 city must withhold all public citizens' dates of birth 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. Gov't Code § 552.130. Upon review, we find the remaining information, including the submitted video recording, contains information subject to section 552.130. You state the city does not have the technological capability to redact the motor vehicle record information from the video recording at issue. Accordingly, the city must withhold the motor vehicle record information we have marked and the submitted video recording in its entirety under section 552.130 of the Government Code.¹ *See* Open Records Decision No. 364 (1983).

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).² Gov't Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Accordingly, the city must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, the city must: (1) withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold the motor vehicle record information we have marked and the submitted video recording in its entirety under section 552.130 of the Government Code; (3) withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure; and (4) 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

¹ As our ruling is dispositive, we need not address the applicability of section 1701.661(a) of the Occupations Code to the submitted video recording. *See generally* Occ. Code § 1701.661(a), (e).

² The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/pt

Ref: ID# 976660

Enc. Submitted documents

c: Requestor
(w/o enclosures)