ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2014

Ms. Andrea D. Russell
Counsel For Town of Flower Mound
Taylor Olson Adkins Sralla Elam
6000 Western Place, Suite 200
I-30 at Bryant - Irvin Road
Fort Worth, Texas 76107-4654

OR2014-21992

Dear Ms. Russell:

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# 545684.

The Town of Flower Mound (the "town"), which you represent, received a request for a specified probable cause affidavit. You claim portions of the submitted information are 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 public 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 established. *See id.* at 681–82. The 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). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation.* Accordingly, the town must withhold the information we marked under section 552.101 of the Government Code in conjunction with

common-law privacy. The remaining information is not highly intimate or embarrassing and may not be withheld under section 552.101 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit and a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)–(2). Accordingly, the department must withhold the information we marked under section 552.130 of the Government Code. The remaining information is not subject to section 552.130 and may not be withheld on that basis.

In summary, the town must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The town also must withhold the 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 545684

Enc. Submitted documents

c: Requestor
(w/o enclosures)