



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 27, 2015

Ms. Stacie S. White  
Counsel for the Town of Flower Mound  
Taylor Olson Adkins Sralla Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2015-10263

Dear Ms. White:

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# 564985.

The Town of Flower Mound (the "town"), which you represent, received a request for a specified report. 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 "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 highly intimate or 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 have marked and indicated satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the town must withhold

the information we have marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not demonstrated how the remaining information you have indicated is highly intimate or embarrassing and not of legitimate public concern. Thus, the remaining information may not 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 or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We have marked information within the remaining documents the town must withhold under section 552.130 of the Government Code. Additionally, we find one of the submitted audio recordings contains information subject to section 552.130. You assert the town does not have the technological capability to redact the motor vehicle record information from the audio recording at issue. However, because the town had the ability to copy the submitted audio recordings for our review, we believe the town has the capability to produce a copy of only the non-confidential portions of the audio recordings. Therefore, we find the town must withhold the motor vehicle record information we have indicated in the submitted audio recordings, as well as the information we have marked in the submitted documents, under section 552.130 of the Government Code. However, we find none of the remaining information at issue consists of information subject to section 552.130. Accordingly, the town may not withhold any of the remaining information under section 552.130 of the Government Code.

In summary, the town must withhold the information we have marked and indicated under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information we have marked and indicated under section 552.130 of the Government Code. The town 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 <http://www.texasattorneygeneral.gov/open/>

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<sup>1</sup>We note the requestor has a special right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, if the town receives another request for this information from a different requestor, the town must again seek a ruling from this office.

[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,

A handwritten signature in black ink, appearing to read "N. A. Ybarra". The signature is fluid and cursive, with the first name "N." and last name "Ybarra" clearly distinguishable.

Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/cbz

Ref: ID# 564985

Enc. Submitted documents

c: Requestor  
(w/o enclosures)