



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 21, 2015

Ms. Marie Rovira
Counsel for the Town of Addison
Messer, Rockefeller & Fort, PLLC
6351 Preston Road, Suite 350
Frisco, Texas 75034

OR2015-14820

Dear Ms. Rovira:

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# 572163.

The Town of Addison (the "town"), which you represent, received a request for information pertaining to two specified incidents. You state the city will redact social security numbers pursuant to section 552.147(b) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.108 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

¹ Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. See Gov't Code 552.147(b).

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.

Generally, only highly intimate information implicating the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, although the town seeks to withhold the entirety of one of the submitted reports under section 552.101 in conjunction with common-law privacy, we find this is not a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the town may not withhold the entirety of the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. Additionally, we find the town has failed to demonstrate any portion of the submitted information is highly intimate or embarrassing and of no legitimate public interest. Thus, the town may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. See *id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The town states the information in Exhibit 2 relates to a concluded case that did not result in conviction or deferred adjudication. Based on the town's representation, we conclude section 552.108(a)(2) is applicable to the information at issue.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code. See ORD 127 at 3-4. Thus, with the exception of basic information, the town may withhold Exhibit 2 under section 552.108(a)(2) of the Government Code.²

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification

²As our ruling is dispositive, we need not address your remaining argument against disclosure of Exhibit 2.

document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the town must withhold the motor vehicle record information you have marked in the documents at issue, in addition to the information we have marked, under section 552.130 of the Government Code. Further, the video recordings submitted as Exhibit 3 contain discernible license plate information. You state the town lacks the technological capability to redact this confidential information from the video recordings. Accordingly, the town also must withhold Exhibit 3 in its entirety under section 552.130 of the Government Code. *See* Open Records Decision No. 364 (1983).

In summary, with the exception of basic information, the town may withhold Exhibit 2 under section 552.108(a)(2) of the Government Code. The town must withhold Exhibit 3 and the motor vehicle record information you have marked in the documents at issue, in addition to the information we have 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 572163

Enc. Submitted documents

c: Requestor
(w/o enclosures)