



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

August 4, 2015

Mr. Richard A. McCracken  
Assistant City Attorney  
City of Fort Worth  
Office of the City Attorney  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102-6311

OR2015-15966

Dear Mr. McCracken:

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# 579684 (CFW PIR No. W043935).

The City of Fort Worth (the "city") received a request for a specified police report. You state the city will release some information to the requestor. You state the city will redact e-mail addresses of members of the public subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. You seek to withhold dates of birth of members of the public under common-law privacy. We note dates of birth of members of the public are generally not highly intimate or embarrassing. *See*

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<sup>1</sup>Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold certain categories of information without the necessity of requesting an attorney general decision.

Open Records Decision No. 455 at 7 (1987) (home addresses, telephone numbers, dates of birth not protected under privacy). Additionally, although you reference *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061 (Tex. App.—Austin, May 22, 2015, pet. filed) (mem. op.), we note a petition for review was filed with the Texas Supreme Court on July 29, 2015. Upon review, we find the city has failed to demonstrate the information at issue is highly intimate or embarrassing and of no legitimate public concern. Accordingly, the city may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no other exceptions to disclosure, the city must release the submitted information.<sup>2</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/orl\\_ruling\\_info.shtml](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,



Kristi L. Godden  
Assistant Attorney General  
Open Records Division

KLG/cz

Ref: ID# 579684

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note the requestor has a right of access to his driver's license information that is being released pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023. If the city receives another request for this information from a different requestor, we note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).