



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 5, 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

OR2015-16118

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# 574280.

The Town of Flower Mound (the "town"), which you represent, received a request for all information and records pertaining to an arrest on a specified date. The town claims some of the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the town only submitted a video recording. We assume, to the extent any additional responsive information existed when the town received the request for information, the town has released it to the requestor. If not, then the town must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

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. *See* Gov't Code § 552.130. The requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) ("person's authorized representative has special right of access,

beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). However, the town must withhold the visible and audible license plate numbers that do not pertain to the requestor under section 552.130 of the Government Code.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."² 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. 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 some of the remaining information, which we have indicated, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the town must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code may be applicable to some of the remaining information. Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov't Code § 552.1175. The town must withhold the information we have indicated under section 552.1175 if the officers at issue elect to restrict

¹You inform us the town is withholding some motor vehicle record information pursuant to Open Records Decision No. 684 (2009). Open Records Decision no. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in section 552.130(a) of the Government Code without the necessity of seeking a decision from the office of the attorney general. *See* Gov't Code § 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). Thus, the statutory amendment to section 552.130 of the Government Code supercedes Open Records Decision No. 684. Therefore, a governmental body may redact information subject to section 552.130(a) only in accordance with section 552.130, not Open Records Decision No. 684.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

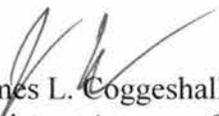
access to this information in accordance with section 552.1175(b) of the Government Code. However, the town may not withhold this information under section 552.1175 if the officers do not elect to restrict access to this information in accordance with section 552.1175(b).

To conclude, the town must withhold the following: (1) the visible and audible license plate numbers that do not pertain to the requestor under section 552.130 of the Government Code; (2) the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy; and (3) the information we have indicated under section 552.1175 of the Government Code if the officers at issue elect to restrict access to this information in accordance with section 552.1175(b) 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/dls

Ref: ID# 574280

Enc. Submitted documents

c: Requestor
(w/o enclosures)