



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 13, 2015

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

OR2015-23938

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# 588635.

The Town of Flower Mound (the "town"), which you represent, received a request for information pertaining to a specified incident. You state the town will redact social security numbers pursuant to section 552.147(b) of the Government Code and other information pursuant to Open Records Decision No. 684 (2009).¹ You claim 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.

¹Section 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. Gov't Code § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general opinion.

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). However, we note the public has a legitimate interest in knowing the general details of a crime. *See generally* *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting a “legitimate public interest in facts tending to support an allegation of criminal activity” (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (5th Cir. 1994))); *Houston Chronicle*, 531 S.W.2d at 186-187 (public has legitimate interest in details of crime and police efforts to combat crime in community). Upon review, we find the information you have indicated under common-law privacy is of legitimate public interest. *See* *Lowe*, 487 F.3d at 250. Therefore, this information is not confidential under common-law privacy and the town may not withhold it under section 552.101 of the Government Code on that basis.

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(a). Some of the submitted audio recordings contain motor vehicle record information that is subject to section 552.130. You state the town lacks the technical capability to redact the information subject to section 552.130 from the recordings. Nevertheless, because the town had the ability to copy the submitted audio recordings in order to submit the requested information for our review, we believe the town has the capacity to produce a copy of only the non-confidential portions of the recordings. Therefore, the town must withhold the audible motor vehicle record information in the submitted audio recordings under section 552.130 of the Government Code. Further, the town must withhold the motor vehicle record information you have marked, and the additional information we have marked, in the submitted documents under section 552.130 of the Government Code. However, the town may not withhold any of the remaining information on that ground. As you raise no further exceptions to disclosure, the remaining information must be released.

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,

A handwritten signature in black ink, appearing to read "Brian E. Berger", is written over the typed name and title.

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 588635

Enc. Submitted documents

c: Requestor
(w/o enclosures)