



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 29, 2016

Ms. Michelle L. Villarreal
Deputy City Attorney
City of League City
300 West Walker Street
League City, Texas 77573

OR2016-06900

Dear Ms. Villarreal:

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# 603101 (League City PIR# 5569).

The City of League City (the "city") received a request for information concerning a specified report. The city released information responsive to the request but made redactions as permitted by section 552.130 of the Government Code without requesting a decision from this office. *See* Gov't Code § 552.130(c). Pursuant to section 552.130(d), the requestor has asked this office to review the information and render a decision as to whether it is excepted from disclosure under section 552.130(a). *See id.* § 552.130(d). We have considered the city's position and reviewed the information.

Section 552.130 of the Government Code excepts from disclosure 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 this state or another state or country. *Id.* § 552.130(a). However, boats, even those utilizing motorized engines, are not "motor vehicles" under Texas law and the ordinary meaning of the term. *See Ozolins v. N. Lake Cmty. Coll.*, 805 S.W.2d 614 (Tex. App.—Fort Worth 1991, no pet.) (a sailboat, even one that contains a motor, is not a motor vehicle). Accordingly, the city may not withhold the boat registration information you redacted under section 552.130 of the Government Code; however, the city must withhold the driver's license information you redacted under section 552.130 of the Government.

We note you have redacted a date of birth. You do not assert, nor does a review of our records indicate, the city is authorized to withhold that information without seeking a ruling from this office. *See* Gov't Code § 552.301; Open Records Decision No. 673 (2001). Accordingly, the city was required to seek a ruling to withhold that information, and it did not meet the procedural deadlines under section 552.301(b) of the Government in asking this office for a ruling on that information. *See* Gov't Code § 552.301(b). Nonetheless, section 552.101 of the Government Code provides a compelling reason to withhold that information from disclosure, so we will consider the applicability of this exception to the information at issue. *See id.* § 552.302.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. In considering whether a member of the public's date of birth is private, the Third Court of Appeals looked to the supreme court's rationale in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010). *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). The supreme court concluded public employees' dates of birth are private under section 552.102 of the Government Code because the employees' privacy interest substantially outweighed the negligible public interest in disclosure.¹ *Tex. Comptroller*, 354 S.W.3d at 347–48. Based on *Texas Comptroller*, the court of appeals concluded the privacy rights of public employees apply equally to members of the public, and thus, dates of birth of members of the public are also protected by common-law privacy pursuant to section 552.101. *City of Dallas*, 2015 WL 3394061, at *3. We note a requestor has a right of access to his own date of birth. *See* Gov't Code § 552.023(b) (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). Accordingly, the city must withhold the date of birth you redacted under section 552.101 of the Government Code in conjunction with common-law privacy.

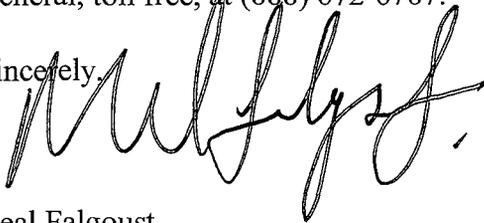
In summary, the city must withhold the driver's license information you redacted under section 552.130 of the Government Code and the date of birth you redacted under section 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information.

¹Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov't Code § 552.102(a).

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 'Neal Falgoust', written over the word 'Sincerely,'.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 603101

Enc. Submitted documents

c: Requestor
(w/o enclosures)