



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 14, 2016

Ms. Cynthia Trevino
Counsel for the City of Pflugerville
Denton Navarro Rocha Bernal Hyde & Zech, P.C.
2500 West William Cannon, Suite 609
Austin, Texas 78745-5320

OR2016-08430

Dear Ms. Trevino:

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# 606177.

The City of Pflugerville (the "city"), which you represent, received a request for information pertaining to a specified incident. You state you have released some information to the requestor. 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 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 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. Upon review, we find the city has failed to demonstrate the submitted information is highly intimate or embarrassing and of no legitimate public interest. Thus, the city may not withhold the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov't Code § 552.130(a)(1)-(2). Upon review, we find the audio recordings and one of the submitted video recordings, which we have indicated, contain motor vehicle record information. You state the city does not have the technological capability to redact the motor vehicle record information from the recordings. However, because the city had the ability to copy the submitted audio recordings for our review, we believe the city has the capability to produce copies of only the non-confidential portions of the audio recordings. Therefore, the city must withhold the motor vehicle record information we have indicated in the audio recordings under section 552.130 of the Government Code. The city must also withhold the video recording we have indicated in its entirety under section 552.130 of the Government Code.¹ However, we find the remaining submitted video recording does not contain motor vehicle record information. Accordingly, the remaining video recording may not be withheld under section 552.130 of the Government Code. As you raise no other 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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/bw

¹The city informs us it has released the photographs at issue in this video recording with redactions pursuant to section 552.130(c) of the Government Code. Section 552.130(c) allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from 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).

Ref: ID# 606177

Enc. Submitted documents

c: Requestor
(w/o enclosures)