



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2016

Mr. Arnold G. Polanco
City Attorney
City of Friendswood
910 South Friendswood Drive
Friendswood, Texas 77546

OR2016-19258

Dear Mr. Polanco:

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# 624024 (City Ref. No. W006082-060416).

The City of Friendswood (the "city") received a request for a specified roster maintained by the city for mail-in ballots for a specified election. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

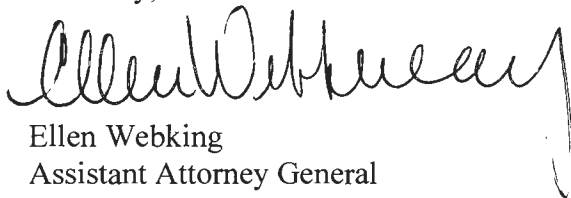
You inform us the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2016-17163 (2016). In Open Records Letter No. 2016-17163, we determined, in relevant part, the city may not withhold the information at issue, which consisted of information identical to the submitted information in the instant request, under section 552.101 of the Government Code in conjunction with section 87.121(f) of the Election Code. Thus, we ruled the city must release that information. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400

(1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the city may not now withhold any information we previously ordered to be released unless its release is expressly prohibited by law or the information is confidential under law. Although the city claims portions of the information previously ordered released are excepted from disclosure under section 552.103 of the Government Code, this section does not prohibit the release of information or make information confidential. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, the city may not now withhold information this office previously ordered to be released under section 552.103. Furthermore, we have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. We therefore conclude the city must continue to rely on Open Records Letter No. 2016-17163 as a previous determination and release the submitted information in accordance with that decision. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we need not consider the city's remaining argument against disclosure.

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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

Ref: ID# 624024

Enc. Submitted documents

c: Requestor
(w/o enclosures)