



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 7, 2016

Mr. R. David Holmes
County Attorney
Hill County Attorney's Office
P.O. Box 253
Hillsboro, Texas 76645

OR2016-22586

Dear Mr. Holmes:

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# 629758.

The Hill County Elections Administration Office (the "county") received several requests from different requestors for all applications for ballots by mail for a specified election. You claim portions of the submitted information are excepted from disclosure under section 552.1175 of the Government Code.¹ We have considered the exception 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."² Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 86.014 of the Election Code, which states in relevant part:

¹Although you claim section 552.117 of the Government Code for portions of the submitted information, section 552.1175 is the proper exception to raise in this instance because the county does not hold the submitted information in an employment capacity.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the latest occurring election for which the application is submitted.

(b) Originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election.

Elec. Code § 86.014. We understand voters may apply to vote by mail for an entire year by using an annual Application for Ballot by Mail (“ABM”) or may apply to vote by mail for a specific election. We note the ABM we have marked is for an entire year. We further note the latest occurring election for which the application at issue was submitted will be in November 2016. Thus, we conclude the county must withhold the annual ABM application we have marked under section 552.101 of the Government Code in conjunction with section 86.014(a) until the first business day after the election day of the latest occurring election for which the application was submitted.³

Section 552.1175 of the Government Code provides, in relevant part, the following:

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual’s choice on a form provided by the governmental body, accompanied by evidence of the individual’s status.

Gov’t Code § 552.1175(b). We note an individual’s personal post office box is not a “home address” for purposes of section 552.1175. *See* Open Records Decision No. 662 at 6 (1994). We are unable to determine from the information provided which, if any, of the individuals at issue are currently subject to section 552.1175. *See* Gov’t Code § 552.1175(a) (listing individuals subject to section 552.1175). Furthermore, you do not inform us the county has received elections from any such individuals to restrict access to the information in accordance with section 552.1175(b). Thus, we must rule conditionally. Accordingly, to the extent the information we have marked relates to individuals who are currently subject to section 552.1175 and who elect to restrict access to the information in accordance with

³As our ruling is dispositive, we need not address your argument against disclosure of this information.

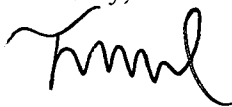
section 552.1175(b), the county must withhold the marked information under section 552.1175 of the Government Code. Conversely, if the individuals whose information is at issue are not currently subject to section 552.1175 or do not elect to restrict access to their information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

In summary, the county must withhold the annual ABM application we have marked under section 552.101 of the Government Code in conjunction with section 86.014(a) until the first business day after the election day of the latest occurring election for which the application was submitted. To the extent the information we have marked relates to individuals who are currently subject to section 552.1175 and who elect to restrict access to the information in accordance with section 552.1175(b), the county must withhold the marked information under section 552.1175 of the Government Code. The county 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 629758

Enc. Submitted documents

c: Requestors
(w/o enclosures)