



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 7, 2017

Mr. Jonathan L. Almanza  
Assistant District Attorney  
Hidalgo County Criminal District Attorney  
100 North Closner, Room 303  
Edinburg, Texas 78539

OR2017-04865

Dear Mr. Almanza:

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# 648269 (File No. 2016-0143-DA.CO).

The Hidalgo County Elections Administration Office (the "county") received a request for all Applications for Ballot by Mail ("ABMs") for a specified election. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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. This section encompasses information protected by other statutes, such as section 86.014 of the Election Code, which states in relevant part:

- (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.

---

<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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. You have submitted ABMs that reflect the voters requested ballots for both the general and any runoff elections. You inform us the ABMs pertain to the May 7, 2016, general election, and the Hidalgo City Commissioner contest resulted in a runoff election, which occurred on June 13, 2016. Further, you state, and provide documentation demonstrating, the 370th District Court in Hidalgo County, declared the runoff invalid and void and the court ordered the City of Hidalgo to conduct a new election. You indicate the new election has not yet occurred. Thus, we conclude the county must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 86.014(a) of the Election Code until the first business day after the new election takes place.

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](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,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/sdk

Ref: ID# 648269

Enc. Submitted documents

c: Requestor  
(w/o enclosures)