



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 4, 2017

Mr. Paul D'Aloisio
Senior Assistant General Counsel
Dallas Area Rapid Transit
P. O. Box 660163
Dallas, Texas 75266-0163

OR2017-07009

Dear Mr. D'Aloisio:

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# 658357 (DART ORR# W001481-030117).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to a specified incident. You state DART released some information. You claim some of 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 information.

DART asserts the dates of birth are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 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. *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. The court of appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *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.). Thus, DART must withhold all public citizens' dates of birth in the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ See Gov't Code § 552.130. Accordingly, DART must withhold the motor vehicle record information in the remaining information under section 552.130 of the Government Code.

In summary, DART must withhold all public citizens' dates of birth in the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information in the remaining information under section 552.130 of the Government Code. DART must release the remaining information.

Finally, although you ask this office to issue a previous determination permitting DART to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office, we note in Open Records Letter No. 2016-08689 (2016) this office already issued a previous determination to DART authorizing it to withhold public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. See *id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (listing elements of second type of previous determination under section 552.301 (a) of the Government Code).

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

¹The 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).

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 "Paige Thompson". The signature is fluid and cursive, with the first name "Paige" being more prominent than the last name "Thompson".

Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 658357

Enc. Submitted documents

c: Requestor
(w/o enclosures)