



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 6, 2017

Ms. Lindsey Aston
General Counsel
Office of the Secretary of State
P.O. Box 12697
Austin, Texas 78711-2060

OR2017-07201

Dear Ms. Aston:

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# 653284.

The Office of the Secretary of State (the "secretary's office") received a request for the reasonable impediment declarations and the number of mail-in ballots related to a specified election. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.115, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, you state the secretary's office sought clarification from the requestor with respect to the portion of the request pertaining to mail-in ballots. *See* Gov't Code § 552.222

¹We 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 those records contain substantially different types of information than that submitted to this office.

(providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010). You state the secretary's office has not received a response from the requestor for this portion of the request. Thus, for the portion of the request for which you have sought but have not received clarification, we find the secretary's office is not required to release information in response to this portion of the request. However, if the requestor clarifies this portion of the request for information, the secretary's office must seek a ruling from this office before withholding any responsive information from the requestor. *See Gov't Code § 552.222; City of Dallas*, 304 S.W.3d at 387. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990).

We note the submitted information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2017-06115 (2017). In that ruling, we determined the secretary's office must: (1) withhold the information we marked under section 552.101 of the Government Code in conjunction with section 20507(a)(6) of title 52 of the United States Code; (2) withhold the public citizens' dates of birth and the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy; (3) withhold the information we marked under section 552.130 of the Government Code; (4) withhold the information we marked under section 552.136 of the Government Code; and (5) release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the secretary's office must continue to rely on Open Records Letter No. 2017-06115 as a previous determination and withhold or release the identical information at issue in accordance with that ruling.² *See* Open Records Decision No. 673 (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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from 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

²As we are able to make this determination, we need not consider your arguments against disclosure of the submitted information.

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 that reads "Cole Hutchison". The signature is written in a cursive style with a large initial "C".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

Ref: ID# 653284

Enc. Submitted documents

c: Requestor
(w/o enclosures)