



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 5, 2017

Mr. Gary D. Gregg
Technical Service Division
Euless Police Department
1102 West Euless Boulevard
Euless, Texas 76040

OR2017-09679

Dear Mr. Gregg:

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# 656433.

The City of Euless (the "city") received a request for information pertaining to the requestor.¹ You state the city will redact information pursuant to Open Records Decision No. 684 (2009).² You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.³ We have considered the exceptions 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." Gov't

¹As you have not submitted a copy of the written request for information, we take our description of the request from your brief.

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision.

³We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e) (requiring governmental body to submit within fifteen business days of receiving request for information comments explaining applicability of raised exceptions, copy of request for information, signed statement of date governmental body received request or evidence sufficient to establish date, and copy of information governmental body seeks to withhold or representative samples). Nevertheless, sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. Thus, we will consider the applicability of these sections to the submitted information. *See id.* §§ 552.007, .302, .352.

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.). However, we note the submitted information contains the requestor's date of birth. The requestor has a right of access to his own date of birth and the city may not withhold it from him on the basis of common-law privacy. See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Nevertheless, the city must withhold all public citizens' dates of birth not pertaining to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

You inform us the city will withhold motor vehicle record information pursuant to section 552.130(c) of the Government Code.⁴ Section 552.130 provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We note, however, because section 552.130 is designed to protect the privacy of individuals, the requestor has a right of access to his own driver's license information under section 552.023 of the Government Code. See *id.* § 552.023(a); ORD 481 at 4. Therefore, we find the city may not withhold the requestor's driver's license information from him under section 552.130 of the Government Code. Furthermore, upon review, none of the remaining information is confidential under section 552.130 of the Government Code, and the city may not withhold it on this basis.

In summary, the city must withhold all public citizens' dates of birth not pertaining to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information.⁵

⁴Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

⁵We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *Id.* § 552.147(b). The requestor has a right, however, to his own social security number. See generally *id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). Additionally, we note the requestor has a right of access beyond that of the general public to some of the information being released. See *id.* § 552.023(a); ORD 481 at 4. If the city receives another request for this information from a different requestor, then the city should again seek a ruling from this office.

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,

A handwritten signature in black ink, appearing to read "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# 656433

Enc. Submitted documents

c: Requestor
(w/o enclosures)