



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 2, 2017

Ms. Natalie Broaddus
Assistant District Attorney
Brazoria County Criminal District Attorney's Office
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2017-12085

Dear Ms. Broaddus:

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# 660229.

The Brazoria County Tax Office (the "tax office") received a request for information pertaining to a named individual. The tax office states it does not have information responsive to a portion of the request.¹ 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 information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 13.004 of the Election Code, which pertains to voter qualifications and registration. Section 13.004 of the Election Code provides, in relevant part, the following:

- (a) The registrar may not transcribe, copy, or otherwise record a telephone number furnished on a registration application.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

...

(c) The following information furnished on a registration application is confidential and does not constitute public information for purposes of [the Act]:

(1) a social security number;

(2) a Texas driver's license number;

(3) a number of a personal identification card issued by the Department of Public Safety;

(4) an indication that an applicant is interested in working as an election judge; or

(5) the residence address of the applicant, if the applicant is a federal judge or state judge, as defined by Section 13.0021, the spouse of a federal judge or state judge, or an individual to whom Section 552.1175, Government Code, applies and the applicant:

(A) included an affidavit with the registration application describing the applicant's status under this subdivision, including an affidavit under Section 13.0021 if the applicant is a federal judge or state judge or the spouse of a federal judge or state judge;

(B) provided the registrar with an affidavit describing the applicant's status under this subdivision, including an affidavit under Section 15.0215 if the applicant is a federal judge or state judge or the spouse of a federal judge or state judge; or

(C) provided the registrar with a completed form approved by the secretary of state for the purpose of notifying the registrar of the applicant's status under this subdivision.

Elec. Code § 13.004(a), (c). You assert the information you have marked was obtained from a voter registration application. *See id.* § 18.061(a) (Office of the Secretary of State ("secretary's office) must implement and maintain statewide computerized voter registration list), (c) (each voter registrar must provide to secretary's office information necessary to maintain registration list established under subsection (a)). Upon review, we find the

information at issue is subject to section 13.004(c) of the Election Code. Accordingly, the tax office must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 13.004(c) of the Election Code.

The tax office 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 also 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, the tax office must withhold the public citizen's date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the tax office must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 13.004(c) of the Election Code. The tax office must also withhold the public citizen's date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. The tax office 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 660229

Enc. Submitted documents

c: Requestor
(w/o enclosures)