



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 1, 2017

Ms. Halfreda Anderson Nelson  
Public Information Officer  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2017-20058

Dear Ms. Nelson:

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# 674316 (ORR #W001752-061917, #W001754-061917).

Dallas Area Rapid Transit ("DART") received two requests for information pertaining to a specified incident.<sup>1</sup> You state DART has released some information to the requestors. 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

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<sup>1</sup>We note DART sought and received clarification of the information requested by the second requestor. See Gov't Code § 552.222 (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) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, including section 452.061, which provides, in relevant part:

(e) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

Transp. Code § 452.061(e). We understand DART is a regional transportation authority governed by chapter 452 of the Transportation Code. *See id.* ch. 452; *see also id.* § 452.001(1) (defining “authority” for purposes of chapter 452 of the Transportation Code). We note subsection 452.061(e) is contained in section 452.061, which is titled “Fares and Other Charges.” Additionally, subsections (a) through (d) of section 452.061 discuss an authority’s responsibilities in imposing fares and other charges and the state’s power to regulate taxes imposed by an authority or other compensation authorized by this section. *See id.* § 452.061(a)–(d). Accordingly, we conclude section 452.061(e) is only applicable to personal identifying information collected by DART for purposes relating to the collection of fares and other charges. *Cf. Paxton v. Tex. Dep’t of State Health Servs.*, 500 S.W.3d 702, 706 (Tex. App.—Austin 2016, no pet.) (holding although isolated reading of section 531.1021(g) of Government Code suggests it applies to any Office of Inspector General (“OIG”) investigation, confidentiality of OIG investigations provided by section 531.1021(g) must be read in context of OIG’s enabling provisions and thus, extended only to OIG investigations concerning fraud, waste, and abuse in the provision and delivery of health and human services in the state). Upon review, we find DART did not collect the personal identifying information of the individuals at issue for purposes relating to the collection of fares and other charges. Consequently, the individuals’ personal identifying information is not confidential under section 452.061(e) of the Transportation Code, and may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code 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.). We note the first requestor has a right of access to her own date of birth pursuant to section 552.023

of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, with the exception of the first requestor's date of birth, DART must withhold all public citizens' dates of birth from the first requestor under section 552.101 of the Government Code in conjunction with common-law privacy. DART must withhold all public citizens' dates of birth from the second requestor 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.<sup>2</sup> *See* Gov't Code § 552.130. Accordingly, DART must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, with the exception of the first requestor's date of birth, DART must withhold all public citizens' dates of birth from the first requestor under section 552.101 of the Government Code in conjunction with common-law privacy. DART must withhold all public citizens' dates of birth from the second requestor under section 552.101 of the Government Code in conjunction with common-law privacy. DART must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. DART must release the remaining information.

DART also asks this office to issue a previous determination that would authorize it to withhold personal identifying information collected by DART under section 552.101 of the Government Code in conjunction with section 452.061 of the Transportation Code. In the alternative, DART asks this office to issue a previous determination that would authorize it to release personal identifying information collected by DART. We decline to issue such a previous determination with respect to either request at this time. Accordingly, 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.

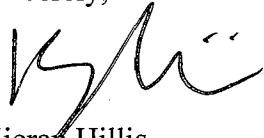
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>2</sup>The 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).

[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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/sb

Ref: ID# 674316

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)