



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 9, 2017

Mr. Gary Grief  
Deputy Executive Director  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630

OR2017-25711

Dear Mr. Grief:

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# 683470 (Ref. No. L-23009).

The Texas Lottery Commission (the "commission") received a request for a list of lottery award winners. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.147 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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 Code § 552.101. This section 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

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<sup>1</sup>Although you do not raise section 552.147 of the Government Code in your brief, we understand the commission to assert this exception based on your markings.

<sup>2</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

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 commission must withhold the dates of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>3</sup>

Section 552.101 of the Government Code also encompasses information protected by other statutes. Section 466.022(b)(3) of the Government Code provides that the following information is confidential and exempt from disclosure:

- (3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information[.]

Gov't Code § 466.022(b)(3). You state the submitted information includes the street address and telephone number of prize winners, which are subject to section 466.022(b)(3). You inform us the prize winners at issue have not consented to the release of their address and telephone number. Accordingly, the commission must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 466.022(b)(3) of the Government Code.

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. *Id.* § 552.147. Upon review, we agree the commission may withhold the social security numbers you have marked under section 552.147 of the Government Code.

In summary, the commission must withhold the dates of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The commission must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 466.022(b)(3) of the Government Code. The commission may withhold the social security numbers you have marked under section 552.147 of the Government Code. The commission 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.

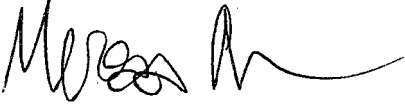
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>3</sup>As our ruling is dispositive, we need not address your argument against disclosure of this information.

[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 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/tdw

Ref: ID# 683470

Enc. Submitted documents

c: Requestor  
(w/o enclosures)