



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 13, 2017

Ms. Julie P. Doshier
Counsel for the Kaufman County Appraisal District
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 North Akard Street, Suite 1800
Dallas, Texas 75201

OR2017-25912

Dear Ms. Doshier:

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# 683894 (Reference No. 89933).

The Kaufman County Appraisal District (the "district"), which you represent, received a request for certain information pertaining to employees of the district. You state the district will release some information. You state the district will redact information pursuant to sections 552.130(c), 552.136(b), and 552.147(b) of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.1175, and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹Section 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. *See* 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). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). 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 requesting a decision from this office under the Act. *Id.* § 552.147(b).

²We 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.

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. Section 552.101 encompasses information protected by other statutes. Section 25.025 of the Tax Code states, in pertinent part:

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if:

(1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual:

(A) chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07; or

(B) is a federal or state judge as defined by section 572.002, Government Code, or the spouse of a federal or state judge, beginning on the date the Office of the Court Administration of the Texas Judicial System notified the appraisal district of the judge’s qualification for the judge’s office.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual’s address.

See Act of May 23, 2017, 85th Leg., R.S., S.B. 42, § 26 (to be codified as an amendment to Tax Code § 25.025(b)); Tax Code § 25.025(c)-(d). Section 25.025(a) sets forth certain categories of individuals who are authorized to make an election of confidentiality pursuant to section 25.025(b). *See* Act of May 9, 2017, 85th Leg., R.S., S.B. 256, § 7 (to be codified as an amendment to Tax Code § 25.025(a)); Act of May 23, 2017, 85th Leg., R.S., S.B. 510, § 1 (to be codified at Tax Code § 25.025(a)); Act of May 30, 2017, 85th Leg., R.S., H.B. 457, § 1 (to be codified as an amendment to Tax Code § 25.025(a)). Section 25.02 of the Tax Code prescribes the information that must be contained within appraisal records. *See id.* § 25.02. This information includes the name and address of the owner of the property. *See id.* § 25.02(a)(1). The district asserts, and we agree, the submitted information contains

the information required to be contained in appraisal records under section 25.02 of the Tax Code. Thus, we conclude the submitted information consists of an appraisal record for purposes of section 25.025(b) of the Tax Code.

The submitted document reveals the owner of the property at issue is an individual subject to section 25.025(a)(1) who filed a request for confidentiality pursuant to section 25.025 of the Tax Code. The district states the owner has not rescinded the request for confidentiality. Accordingly, we conclude the information you have marked is confidential under section 25.025(b) of the Tax Code, and the district must withhold it under section 552.101 on that basis.³ See Act of May 23, 2017, 85th Leg., R.S., S.B. 42, § 26 (to be codified as an amendment to Tax Code § 25.025(b)).

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.). Thus, the district must withhold the public citizen's date of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175(b). Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" Gov't Code § 552.1175(a)(1). Thus, to the extent the information at issue pertains to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), the district must withhold the information we have marked under section 552.1175 of the Government Code. If the individual whose information is not currently a licensed peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the indicated information may not be withheld under section 1175.

Section 552.149 provides, in relevant part, as follows:

- (a) Information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity

³As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of [the Act].

(b) Notwithstanding Subsection (a), the property owner or the owner's agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner's protest[.]

Id. § 552.149(a)-(b). Subsections 552.149(a) and (b) are limited to those counties having a population of 50,000 or more. *Id.* § 552.149(e). We understand Kaufman County has a population of 50,000 or more. You state the information at issue includes information related to real property sales prices, descriptions, characteristics, and other related information received from a private entity. You state the requestor does not have a right of access to this information pursuant to section 552.149(b). *See id.* § 552.149(b). Accordingly, based on your representations and our review, we find the district must withhold the information you have marked under section 552.149(a) of the Government Code.⁴

In summary, the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 25.025(b) of the Tax Code. The district must withhold the public citizen's date of birth under section 552.101 of the Government Code. To the extent the information at issue pertains to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), the district must withhold the information we have marked under section 552.1175 of the Government Code. The district must withhold the information you have marked under section 552.149(a) of the Government Code. The district 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/>

⁴As our ruling is dispositive, we need not address the remaining arguments 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 'Jahanna Ward', with a stylized flourish at the end.

Jahanna Ward
Assistant Attorney General
Open Records Division

JW/tdw

Ref: ID# 683894

Enc. Submitted documents

c: Requestor
(w/o enclosures)