



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 25, 2018

Ms. Tangerla Williams
Public Information Officer
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2018-01663

Dear Ms. Anderson-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# 693340 (DART ORR #W002192-103117).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to a specified incident. You state you have released some information. 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 Code § 552.101. Section 552.101 encompasses information other statutes make confidential. DART is a regional transportation authority governed by chapter 452 of the Transportation Code. *See* Transp. Code ch. 452; *see also id.* § 452.001(1) (defining "authority" for purposes of chapter 452 of the Transportation Code). Section 452.061 of the Transportation Code 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.

Id. § 452.061(e). You assert portions of the submitted information consist of personal identifying information made confidential by section 452.061(e). 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 for purposes relating to the collection of fares and other charges. Consequently, the personal identifying information at issue 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.). Thus, DART must withhold all public citizens’ dates of birth under section 552.101 of the Government Code.

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

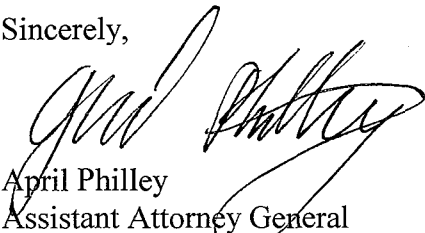
identification document issued by an agency of this state or another state or country is excepted from public release.¹ See Gov't Code § 552.130. Accordingly, DART must withhold the motor vehicle record information in the submitted information under section 552.130 of the Government Code.

In summary, DART must withhold all public citizens' dates of birth under section 552.101 of the Government Code. DART must withhold motor vehicle record information under section 552.130 of the Government Code. DART must release the remaining information.

You ask this office to issue a previous determination to DART 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 without the necessity of requesting a ruling from this office. See Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). In the alternative, you ask this office to issue a previous determination to DART that would authorize it to release personal identifying information collected by DART. We decline to issue such a previous determination 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/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,



April Philley
Assistant Attorney General
Open Records Division

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¹The 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).

Ref: ID# 693340

Enc. Submitted documents

c: Requestor
(w/o enclosures)