



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 7, 2019

Ms. Shea Smith
Assistant City Attorney
City of Sugar Land
PO Box 110
Sugar Land, Texas 77487-0110

OR2019-12201

Dear Ms. Smith:

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# 763992 (ORR# W006213).

The City of Sugar Land (the "city") received a request for records regarding specified completed candidate applications. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note, and the city acknowledges, the submitted information is subject to section 1.012 of the Election Code, which provides as follows:

(a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

...

(c) Except as otherwise provided by this code or [the Act], all election records are public information.

(d) In this code, "election record" includes:

(1) anything distributed or received by government under this code;

...

(3) a certificate, application, notice, report, or other document or paper issued or received by government under this code.

Elec. Code § 1.012(a), (c), (d)(1), (d)(3). An application for a place on an election ballot “is public information immediately on its filing.” *Id.* § 141.035. Therefore, under section 1.012(a), the information at issue is public information subject to disclosure, except as provided by the Act. *See id.* § 1.012(a), (c). Accordingly, we will address your arguments against disclosure.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See Gov’t Code* § 552.117(a)(1). We note section 552.117 applies only to information held by a governmental body in an employment context. Thus, information that is not held in an employment context may not be withheld under section 552.117. Upon review, we find city does not hold the submitted information in an employment context. Thus, the information at issue may not be withheld under section 552.117.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the city must withhold the e-mail addresses you marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 of the Government Code 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

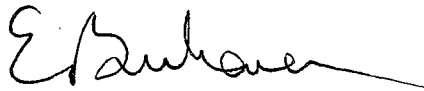
city must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the city must withhold the e-mail addresses you marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their disclosure. The city must withhold all public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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,



Emily Buchanan
Attorney
Open Records Division

EB/mo

Ref: ID# 763992

Enc. Submitted documents

c: Requestor
(w/o enclosures)