



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 15, 2019

Mr. Cary L. Bovey
Counsel for the City of Navasota
Law Office of Cary L. Bovey, P. L. L. C.
2251 Double Creek Drive, Suite 204
Round Rock, Texas 78664

OR2019-19010

Dear Mr. Bovey:

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# 775296.

The City of Navasota (the "city"), which you represent, received a request for three categories of information pertaining to the city's election records. The city has released some information to the requestor. The city claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

The city asserts the dates of birth in the submitted information are excepted from public disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. 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 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 the dates of birth it has marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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). *See* Gov’t Code § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, the city must withhold the personal e-mail addresses it has marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

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



Lecelle Clarke
Attorney
Open Records Division

LC/jxd

Ref: ID# 775296

Enc. Submitted documents

c: Requestor
(w/o enclosures)