



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 28, 2020

Mr. Matthew Entsminger
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2020-02513

Dear Mr. Entsminger:

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# 816338.

The Travis County Attorney's Office (the "county attorney's office") received a request for certain records pertaining to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.137 of the Government Code. We have considered the exceptions 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 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.). We note the requestor has a right of access to her own date of birth. *See* Gov't Code § 552.023(a) ("person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the county attorney's office may not withhold the date of birth you marked from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

You state the county attorney's office will redact information pursuant to section 552.130(c) of the Government Code.¹ 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. *See Gov't Code § 552.130.* We note, because section 552.130 protects privacy interests, the requestor has a right of access to her own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023; ORD 481 at 4. Therefore, the county attorney's office may not withhold the motor vehicle record information you marked from this requestor under section 552.130 of the Government Code.

You state the county attorney's office will redact information subject to section 552.137 of the Government Code in accordance with Open Records Decision No. 684 (2009).² 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). Gov't Code § 552.137(a)-(c). We note one of the e-mail addresses you marked belongs to the requestor. The requestor has a right of access to her own e-mail address pursuant to section 552.137(b). *See id.* § 552.137(b). Consequently, the county attorney's office may not withhold the requestor's e-mail address from her under section 552.137. Nevertheless, the remaining e-mail address you marked is not one of the types specifically excluded by section 552.137(c). *See id.* § 552.137(c). Accordingly, the county attorney's office must withhold the remaining e-mail address you marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its release.

In summary, with the exception of the requestor's e-mail address, the county attorney's office must withhold the e-mail address you marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its release. The county attorney's office must release the remaining information.³

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

¹ Section 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).

² Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See Open Records Decision No. 684.*

³ We note the requestor has a right of access to some of the information being released in this instance. *See Gov't Code § 552.023; id.* § 552.137(b); ORD 481 at 4. Accordingly, if the county attorney's office receives another request for this same information from a different requestor, the county attorney's office must again seek a ruling from this office.

responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/be

Ref: ID# 816338

Enc. Submitted documents

c: Requestor
(w/o enclosures)