



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 4, 2020

Ms. Lee Woodward
City Secretary
City of La Porte
604 West Fairmont Parkway
La Porte, Texas 77571

OR2020-12547

Dear Ms. Woodward:

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# 825837.

The City of La Porte (the "city") received a request for a list of individuals who have submitted an application to vote by mail, including specified information pertaining to those individuals. 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 representative sample of information.¹

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 protected by other statutes, such as section 86.014 of the Election Code, which states as follows:

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the earliest occurring election for which the application is submitted.

¹ We 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 that those records contain substantially different types of information than that submitted to this office.

(b) Originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election.

Elec. Code § 86.014. Upon review, we find you have failed to demonstrate the submitted information is subject to section 86.014 of the Election Code. Therefore, the city may not withhold the submitted information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 87.121 of the Election Code, which provides, in relevant part, as follows:

(a) The early voting clerk shall maintain for each election a roster listing each person who votes an early ballot by personal appearance and a roster listing each person to whom an early voting ballot to be voted by mail is sent.

(b) For each person listed, the applicable roster must include:

(1) the person's name, address, and voter registration number;

(2) an identification of the person's county election precinct of registration; and

(3) the date of voting or the date the ballot was mailed to the person, as applicable.

...

(f) Information on the roster for a person to whom an early voting mail ballot has been sent is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after election day.

Id. § 87.121(a), (b), (f). We understand you to contend the submitted information is confidential pursuant to section 87.127(f). However, upon review, we find you have failed to demonstrate the submitted information is subject to section 87.121(f). Accordingly, the city may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 87.121(f) of the Election Code. As no further exceptions to disclosure have been raised, the city must release the submitted 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 <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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/be

Ref: ID# 825837

Enc. Submitted documents

c: Requestor
(w/o enclosures)