



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 7, 2020

Mr. Jeremy R. Page  
Counsel for the City of Lancaster  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2020-13057

Dear Mr. Page:

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# 826988 (City ID# W015048).

The City of Lancaster (the "city"), which you represent, received a request for all personnel records related to a named city employee. You state you will release some information to the requestor. You claim a portion of the submitted information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the *Texas Comptroller of Public Accounts*. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Accordingly, the city must withhold the employee's date of birth you have marked under section 552.102(a) of the Government Code.

You indicate you will redact information subject to section 552.117(a)(1) of the Government Code pursuant to section 552.024(c) of the Government Code.<sup>1</sup> 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 a post office box number is not a "home address" for purposes of section 552.117(a). *See* Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of section 552.117 is to protect public employees from being harassed at home). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. You state the city employee whose information is at issue timely requested confidentiality pursuant to section 552.024. Accordingly, with the exception of the information we have marked for release, the city must withhold the remaining information you have marked under section 552.117(a)(1) of the Government Code. However, the information we have marked for release does not consist of home addresses and telephone numbers, social security numbers, emergency contact information, or family member information. Therefore, the city may not withhold any of the information we have marked for release under section 552.117 of the Government Code.

In summary, the city must withhold the employee's date of birth you have marked under section 552.102(a) of the Government Code, and, with the exception of the information we have marked for release, the remaining information you have marked under section 552.117(a)(1) of the Government Code. 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 <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

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<sup>1</sup> Section 552.024(c)(2) of the Government Code authorizes a governmental body to withhold information subject to section 552.117(a)(1) without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2).

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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,

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/jlbn

Ref: ID# 826988

Enc. Submitted documents

c: Requestor  
(w/o enclosures)