



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 1, 2020

Mr. Eric C. Farrar
Counsel for City of Eagle Lake
Olson & Olson, LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2020-29844

Dear Mr. Farrar:

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# 854827 (Ref. No. Eagle20-002).

The City of Eagle Lake (the "city"), which you represent, received a request for information related to a specified investigation. You state you will redact certain information protected by section 552.117(a)(2) of the Government Code in accordance with Open Records Decision No. 670 (2001).¹ You further state you will redact information pursuant to sections 552.130(c) and 552.136(c) of the Government Code and Open Records Decision No. 684 (2009).² You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code.³ We have considered the exception you claim and reviewed the submitted information.

¹ Open Records Decision No. 670 authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. ORD 670 at 6.

² 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). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision.

³ We note, and you acknowledge, the city did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b). Nevertheless, because sections 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply

Initially, we note it appears you have only submitted an L-1 Appointment Application form. We assume, to the extent any additional responsive information existed when the city received the request for information, you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

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 has 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 date of birth you have marked under section 552.102(a) of the Government Code.⁴ 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 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/be

Ref: ID# 854827

c: Requestor

with section 552.301, we consider its applicability. We will also address the applicability of section 552.102, which can also provide a compelling reason to overcome the presumption of openness. The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁴ As our ruling is dispositive, we need not address your argument against disclosure of this information.