



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 10, 2022

Mr. Joseph J. Gorfida, Jr.  
Attorney for the City of Allen  
Nichols Jackson  
500 North Akard Street, 1800 Ross Tower  
Dallas, Texas 75201

OR2022-16764

Dear Mr. Gorfida:

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# 953188 (Ref. No. 128782).

The City of Allen (the "city"), which you represent, received a request for three categories of information pertaining to a specified request for proposals. You state you have released some of the requested information to the requestor. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Starwood Services, LLC ("Starwood"). Accordingly, you state, and provide documentation showing, you notified Starwood of the request and its right to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Starwood. Thus, we have no basis to conclude Starwood has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold any of the submitted information on the basis of any proprietary interest Starwood may have in the 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.”<sup>1</sup> *Id.* § 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 public citizen’s date of birth under section 552.101 of the Government Code in conjunction with common-law privacy. 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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/jm

Ref: ID# 953188

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).