



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 7, 2022

Mr. Omar Ochoa
City Attorney
City of Edinburg
P.O. Box 1079
Edinburg, Texas 78540

OR2022-30926

Dear Mr. Ochoa:

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# 974292 (Reference No. R000713-071822).

The City of Edinburg (the "city") received a request for campaign finance reports and campaign treasurer forms filed with the city during defined periods of time. You state the city released information to the requestor, but made redactions as permitted by section 552.1175(f) of the Government Code without requesting a decision from this office. Pursuant to section 552.1175(g), the requestor has asked this office to review the information redacted by the city and render a decision as to whether it is excepted from disclosure under section 552.1175(a) of the Government Code. The city also claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the city's position and reviewed the information. Initially, we note the submitted information is subject to section 1.012 of the Election Code, which provides as follows:

(a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

...

(c) Except as otherwise provided by this code or [the Act], all election records are public information.

(d) In this code, “election record” includes:

(1) anything distributed or received by government under this code;

...

(3) a certificate, application, notice, report, or other document or paper issued or received by government under this code.

Elec. Code § 1.012(a), (c), (d)(1), (d)(3). Campaign finance reports must be filed under the Election Code. *See id.* §§ 254.031, .061, .091. Therefore, under section 1.012(a), the information at issue is public information subject to disclosure, except as provided by the Act. *See id.* § 1.012(a), (c). Accordingly, we will address the city’s argument against its disclosure.

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 Third 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 continue to withhold dates of birth you redacted under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov’t Code § 552.1175. Section 552.1175, applies, in part, to “current or former employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code[.]”, “federal judges and state judges as defined by section 1.005, Election Code”, and “an elected public officer[.]” *Id.* § 552.1175(a)(11), (13), (17); *see also* Elec. Code § 1.005. Upon review, we find some of the information at issue relates to individuals whose personal information is subject to section 552.1175(a). Thus, with the exception of the information we marked for release, the city must withhold the information you redacted under section 552.1175 of the Government Code if the individuals whose information is at issue elect to restrict access to their information in accordance with section 552.1175(b) of the Government Code. However, we find the city has failed to demonstrate the applicability of section 552.1175 to the information we marked for release, and it may not be withheld on that basis.

In summary, the city must continue to withhold dates of birth you redacted under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information we marked for release, the city must withhold the information you redacted under section 552.1175 of the Government Code if the individuals whose information is at issue elect to restrict access to their information in accordance with section 552.1175(b) 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 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,

Jahna Ward
Assistant Attorney General
Open Records Division

JW/pt

Ref: ID# 974292

Enc. Submitted documents

c: Requestor
(w/o enclosures)