



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 6, 2022

Mr. Russell W. Malm  
County Attorney  
Midland County Attorney  
500 North Loraine, Suite 1103  
Midland, Texas 79701

OR2022-37841

Dear Mr. Malm:

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# 987860.

The Midland County Elections Office (the “elections office”) received a request for a list of individuals who voted by mail in the 2022 Republican and Democrat primary elections.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted 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.” 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

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<sup>1</sup> As you have not submitted a copy of the request for information, we take our description from your brief to our office.

<sup>2</sup> We note the elections office did not comply with the requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov’t Code § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

after the election day of the earliest occurring election for which the application is submitted.

(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 elections office may not withhold the submitted information under section 552.101 of the Government Code on that basis. As you raise no other exceptions to disclosure, the elections office 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,

Justin H. Miller  
Attorney  
Open Records Division

JHM/EB

Ref: ID# 987860

Enc. Submitted documents

c: Requestor  
(w/o enclosures)