



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 6, 2015

Mr. Kyle O. Jones
Assistant Criminal District Attorney
County of Brazoria
111 East Locust Street, Suite 408A
Angleton, Texas 77515

OR2015-08826

Dear Mr. Jones:

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# 562453.

Brazoria County (the "county") received a request for information pertaining to registered voters in the county, including their names, voting histories, addresses, birth dates, districts, precincts, and voter identification numbers. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered your argument and reviewed the submitted representative sample of information.²

You argue the submitted information is excepted from disclosure pursuant to section 18.009 of the Election Code. 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 made confidential by other statutes. Pursuant to subchapter A of chapter 18 of the Election Code,

¹We understand you to raise section 552.101 based on the substance of your argument.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the registrar in each county must prepare for each precinct a certified list of registered voters in the precinct. *See* Elec. Code §§ 18.001-.004 (discussing original, supplemental, registration correction, and revised original lists of registered voters), 12.001 (stating county tax-assessor collector is voter registrar for county). Each original and supplemental list of registered voters must contain the voter's name, date of birth, and registration number, the voter's residence address, except as provided by subsections (b) and (c) or section 18.0051, and the notation required by section 15.111. *See id.* § 18.005(a)(1)-(2), (4); *see also id.* §§ 18.0051 (discussing substitute addresses in list of registered voters), 15.111(a) (explaining registrar shall enter certain notation on registered voter's list beside voter's name on suspense list). Section 18.008 of the Election Code provides, in part, as follows:

(a) The registrar shall furnish a copy of any list prepared under . . . subchapter [A of chapter 18] to any person requesting it. The copy shall be furnished without the names of voters whose names appear on a list with the notation "S", or a similar notation, if requested in that form.

Id. § 18.008(a). Section 18.009 of the Election Code provides as follows:

(a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Section 18.008.

(b) An offense under this section is a Class A misdemeanor.

Id. § 18.009. You explain the request reveals the requestor is employed by a direct mail solution business that specializes in distributing political mail. You assert because the requestor has made a request in his capacity as an employee of a mail solution business, and given the nature of the company, "it is apparent that the information requested will be utilized for a direct mail business." Thus, you assert this is a potential violation of section 18.009 of the Election Code. We note the Act does not permit a governmental body or this office to consider a requestor's use of information. *See* Gov't Code § 552.222(a) (stating governmental body may not inquire into purpose for which information will be used); *see also* Open Records Decision Nos. 508 at 3 (1988) (use that may be made of information does not control whether it falls within exception to disclosure), 51 (1974). Further, section 552.204 of the Government Code provides a governmental body is not responsible for the use that may be made of information released to the public under the Act. *See* Gov't Code § 552.204(a). We also note, for information to be confidential under section 552.101, a statute must explicitly require confidentiality; confidentiality will not be inferred. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (as general rule, statutory confidentiality requires express language making information confidential), 465 at 4-5 (1987). Section 18.009 of the Election Code states a person commits an offense if the person uses information in connection with

advertising or promoting commercial products or services that the person knows was obtained under section 18.008. Elec. Code § 18.009(a). However, section 18.009 does not expressly provide for the confidentiality of information on a registration list. Therefore, the submitted information may not be withheld under section 552.101 in conjunction with section 18.009(a) of the Election Code. Section 18.008(a) states a list created under subchapter A must be provided upon request with certain names excluded. *See id.* § 18.008(a). Thus, the county must release the submitted information in accordance with section 18.008(a) of the Election Code.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 562453

Enc. Submitted documents

c: Requestor
(w/o enclosures)