



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2016

Mr. Gary Grief
Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR2016-15738

Dear Mr. Grief:

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# 617916 (TLC File # L-21289).

The Texas Lottery Commission (the "commission") received a request for information pertaining to the purchase of a specified lottery ticket.¹ You state you will release some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions 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. This section encompasses information protected by other statutes. Section 466.022(b)(3) of the Government Code provides that the following information is confidential and exempt from disclosure:

- (3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.

¹We note the commission sought and received clarification of the request for information. See Gov't Code § 552.222(b) (stating governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

Id. § 466.022(b)(3). You state the submitted information includes the street address and telephone number of the prize winner, which are subject to section 466.022(b)(3). You inform us the prize winner at issue has not consented to the release of his address and telephone number. Accordingly, the commission must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 466.022(b)(3) of the Government Code.

Section 552.101 of the Government Code also 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. In considering whether a public citizen's date of birth is private, the Third Court of Appeals looked to the supreme court's rationale in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010). *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.). The supreme court concluded public employees' dates of birth are private under section 552.102 of the Government Code because the employees' privacy interest substantially outweighed the negligible public interest in disclosure.² *Tex. Comptroller*, 354 S.W.3d at 347-48. Based on *Texas Comptroller*, the court of appeals concluded the privacy rights of public employees apply equally to public citizens, and thus, public citizens' dates of birth are also protected by common-law privacy pursuant to section 552.101. *City of Dallas*, 2015 WL 3394061, at *3. Thus, the commission must withhold the public citizen's date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the commission must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, the commission must withhold most of the information you have marked under section 552.136 of the Government Code. However, we find the information we have marked for release does not consist of access device numbers for purposes of section 552.136. Accordingly, the commission may not withhold the information we have marked for release under section 552.136 of the Government Code.

²Section 552.102(a) 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).

Section 552.147 of the Government Code provides, “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147. Accordingly, the commission may withhold the social security number you have marked under section 552.147 of the Government Code.

In summary, the commission must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 466.022(b)(3) of the Government Code. The commission must withhold the public citizen’s date of birth you have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The commission must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code. Except for the information we have marked for release, the commission must withhold the information you have marked under section 552.136 of the Government Code. The commission may withhold the social security number you have marked under section 552.147 of the Government Code. The remaining information must be released.

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 617916

Enc. Submitted documents

c: Requestor
(w/o enclosures)