



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 15, 2016

Mr. Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
P.O. Box 12157
Austin, Texas 78711

OR2016-16000

Dear Mr. Bowman:

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# 618799 (ORR# PIR-20160611).

The Texas Department of Licensing and Regulation (the "department") received a request for information pertaining to the licensing of a named individual. You state the department has released some of the requested information. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the department has redacted portions of the submitted information. We understand the department has redacted dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-02039 (2016) and social

¹We 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 those records contain substantially different types of information than that submitted to this office.

security numbers pursuant to section 552.147(b) of the Government Code.² However, you have also redacted Department of Public Safety numbers from the submitted documents. You do not assert, nor does our review of the records indicate, you have been authorized to withhold this information without seeking a ruling from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001). Therefore, information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information; thus, being deprived of this information does not inhibit our ability to make a ruling. In the future, however, the department should refrain from redacting any information it is not authorized to withhold in seeking an open records ruling. Failure to do so may result in the presumption the redacted information is public. *See* Gov't Code § 552.302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses section 51.207 of the Occupations Code, which provides, in relevant part:

(c) The department may satisfy any requirement under [chapter 51] or another law governing a program subject to regulation by the department to provide notice by delivering the notice by e-mail to the recipient's last known e-mail address if the recipient has previously authorized the department to deliver the notice by e-mail. An e-mail address used under this subsection is confidential and is not subject to disclosure under Chapter 552, Government Code.

Occ. Code § 51.207(c). You argue the licensees' e-mail addresses in the submitted information are confidential pursuant to section 51.207(c) of the Occupations Code. You state the primary purpose of obtaining the e-mail addresses is to send notices pertaining to license renewal and other compliance related matters. You inform us in sending such notices to the recipients, the department is satisfying a requirement under chapter 51 of the Occupations Code or another law governing a program subject to regulation by the department. *See id.* §§ 51.303 (department shall issue to respondent a notice of alleged violation if, after investigation, department determines violation occurred), 2001.142(2) (state agency shall notify each party to contested case of any decision or order of the agency, if agreed to by party to be notified, by electronic means sent to current e-mail address). You inform us, and provide documentation demonstrating, the recipients whose e-mail addresses

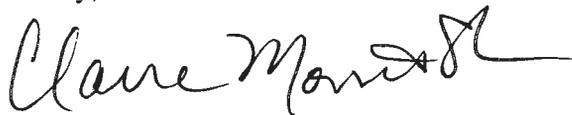
²Open Records Letter No. 2016-02039 authorized the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

are at issue authorized the department to deliver the notices by e-mail. Therefore, the department must withhold the e-mail addresses you have marked under section 552.101 of the Government Code in conjunction with section 51.207(c) of the Occupations Code. As you raise no further exceptions to disclosure, the department must release the remaining information.

You ask this office to issue a previous determination permitting the department to withhold licensees' e-mail addresses under section 552.101 of the Government Code in conjunction with section 51.207(c) of the Occupations Code without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 618799

Enc. Submitted documents

c: Requestor
(w/o enclosures)