



**KEN Paxton**  
ATTORNEY GENERAL OF TEXAS

August 3, 2016

Mr. Michael Phelps  
Senior Paralegal  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-0975

OR2016-17467

Dear Mr. Phelps:

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# 621394 (HCAD Ref. No. 16-2429).

The Harris County Appraisal District (the "district") received a request for all records pertaining to a specified property created during a specified time. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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 22.27(a) of the Tax Code provides the following:

Rendition statements, real and personal property reports, attachments to those statements and reports, and other information the owner of property provides

---

<sup>1</sup>We 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.

to the appraisal office in connection with the appraisal of the property, including income and expense information related to a property filed with an appraisal office and information voluntarily disclosed to an appraisal office or the comptroller about real or personal property sales prices after a promise it will be held confidential, are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

Tax Code § 22.27(a). We understand the district is an “appraisal office” for purposes of section 22.27(a). You represent the information you marked was furnished to the district by property owners or agents of property owners in connection with the appraisals of property and was obtained under promises of confidentiality. None of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b). Based on your representations and our review, we find the district must withhold Exhibit C and the information you marked in Exhibits D and E under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

Section 552.149 of the Government Code provides, in relevant part:

(a) Information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of [the Act].

(b) Notwithstanding Subsection (a), the property owner or the owner’s agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner’s protest[.]

Gov’t Code § 552.149(a)-(b). Subsections 552.149(a) and (b) are limited to those counties having a population of 50,000 or more. *Id.* § 552.149(e). Harris County has a population of 50,000 or more. You state the information you marked in Exhibits D and E consists of information related to real property sales prices, descriptions, and characteristics, and it was obtained from private entities. You indicate the information at issue does not contain

information to which the requestor has a right of access pursuant to section 552.149(b). *See id.* § 552.149(b). Based on your representations and our review, we find the district must withhold the information you marked in Exhibits D and E under section 552.149(a) 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. *Indus. Found.* 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.<sup>2</sup> *Texas 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 district must withhold the public citizen's date of birth you marked in Exhibit F under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the district must withhold Exhibit C and the information you marked in Exhibits D and E under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. The district must withhold the information you marked in Exhibits D and E under section 552.149(a) of the Government Code. The district must withhold the public citizen's date of birth you marked in Exhibit F under section 552.101 of the Government Code in conjunction with common-law privacy. The district must release the remaining information.<sup>3</sup>

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.

---

<sup>2</sup>Section 552.102(a) exempts 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).

<sup>3</sup>The information being released contains a social security number. 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).

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](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,

A handwritten signature in black ink, appearing to read 'Meagan J. Conway', written in a cursive style.

Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/akg

Ref: ID# 621394

Enc. Submitted documents

c: Requestor  
(w/o enclosures)