



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 3, 2009

Mr. David M. Swope  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR2009-04401

Dear Mr. Swope:

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# 338936 (County Attorney File No. 09GEN0131).

The Harris County Voter Registrar's Office (the "county") received a request for all information submitted by a named individual via an open records request made to the county concerning a specified election, and all information supplied to that individual in response to his open records request. You claim that 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 information.

Initially, we understand some of the information the county seeks to withhold was provided to the county by an individual who appears to have obtained the information from another governmental body. A portion of this information consists of county voter registration forms. The county states that it is unaware of how the named individual obtained this information. Section 552.007 of the Government Code generally prohibits selective disclosure of information that a governmental body has voluntarily made available to any member of the public. *See id.* § 552.007. Section 552.007 provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See id.*; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision Nos. 490 (1988), 400 (1983)

(governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). In this instance, the county raises section 552.101 of the Government Code, which governs information considered to be confidential by law. *See* Gov't Code § 552.101. Thus, regardless of whether the county previously released any of the information at issue in this request, we must address whether the submitted information is made confidential by law and must now be withheld pursuant to section 552.101 of the Government Code.

Next, we note, and you acknowledge, that you have redacted a portion of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *Id.* § 552.301(a), (e)(1)(D). Section 552.147(b) 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 under the Act. *Id.* § 552.147(b). You do not assert, nor does our review of the records indicate, you have been authorized to withhold the remaining redacted information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision 673 (2000). Thus, 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 that information does not inhibit our ability to make a ruling. In the future, however, the county should refrain from redacting any information it submits to this office in seeking an open records ruling. An unauthorized redaction may result in a determination that the information must be released. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ).

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. You raise section 552.101 in conjunction with section 13.004(c) of the Election Code, which provides that:

(c) The following information furnished on a registration application is confidential and does not constitute public information for purposes of Chapter 552, Government Code:

- (1) a social security number;
- (2) a Texas driver's license number;
- (3) a number of a personal identification card issued by the Department of Public Safety;

(4) an indication that an applicant is interested in working as an election judge[.]

Elec. Code § 13.004(c). Therefore, we conclude that the county must withhold the social security, Texas driver's license, and personal identification numbers you have redacted, and the additional information we have marked, in the submitted registration applications under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code.

We will now address the information not contained in registration applications. We note that this remaining information includes Texas motor vehicle record information. Section 552.130 of the Government Code excepts from disclosure "information [that] relates to: (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; (2) a motor vehicle title or registration issued by an agency of this state; or (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document."<sup>1</sup> Gov't Code § 552.130(a). Accordingly, the county must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.

We also note that some of the remaining information is subject to section 552.137 of the Government Code. This section excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the individual consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). You do not inform us that a member of the public has affirmatively consented to the release of any e-mail address. The e-mail addresses we have marked are not of a type specifically excluded by section 552.137(c). Thus, the county must withhold the e-mail addresses we have marked under section 552.137 of the Government Code.

In summary, the county must withhold the social security, Texas driver's license, and personal identification numbers you have redacted, and the additional information we have marked, in the submitted registration applications under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code. The county must also withhold the Texas motor vehicle record information we have marked under section 552.130

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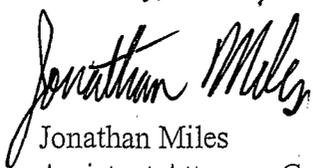
<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

of the Government Code and the e-mail addresses we have marked under section 552.137 of the Government Code. The remaining information must be released.<sup>2</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.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 338936

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>We note that the remaining information contains social security numbers. 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 under the Act.