



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 12, 2016

Ms. Julie P. Doshier  
Counsel for the City of Lancaster  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Ross Tower  
500 North Akard  
Dallas, Texas 75201

OR2016-00922

Dear Ms. Doshier:

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# 593895 (Reference No. 73913).

The City of Lancaster (the "city"), which you represent, received a request for information pertaining to the employment of a named employee of the city's police department. The city states it will redact information under sections 552.130(c) and 552.147(b) of the Government Code.<sup>1</sup> The city claims the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, and 552.137 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

We note the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-25982 (2015). In Open Records Letter No. 2015-25982, we ruled (1) the city must withhold the information we

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). 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. *Id.* § 552.147(b).

marked under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code; (2) the city may withhold the information we marked under section 552.107(1) of the Government Code; (3) the city may withhold the information it marked under section 552.108(b)(2) of the Government Code; (4) the city must withhold the information we marked under section 552.101 in conjunction with section 411.083 of the Government Code; (5) the city must withhold the public citizens' dates of birth it marked under section 552.101 of the Government Code in conjunction with common-law privacy; (6) the city must withhold the information it marked under section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code; (7) the city must withhold the personal e-mail address it marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure; and (8) the city must release the remaining information. Section 552.007 of the Government Code 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 by law. *See* Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 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). Accordingly, pursuant to section 552.007, the city may not now withhold any information we previously ordered to be released unless its release is expressly prohibited by law or the information is confidential under law. Although the city claims portions of the information previously ordered released are excepted from disclosure under sections 552.103, 552.107, and 552.108 of the Government Code, these sections do not prohibit the release of information or make information confidential. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 676 at 10-11 (2002) (attorney-client privilege under section 552.107(1) may be waived), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver), 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, the city may not now withhold information this office previously ordered to be released under section 552.103, section 552.107, or section 552.108. Furthermore, we have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. We therefore conclude the city must continue to rely on Open Records Letter No. 2015-25982 as a previous determination and withhold or release the submitted information in accordance with that decision. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we need not consider the city's remaining arguments against disclosure.

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](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,

Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 593895

Enc. Submitted documents

c: Requestor  
(w/o enclosures)