



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 6, 2016

Ms. Kristen Lee
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2016-22504

Dear Ms. Lee:

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# 629479 (CA File No. 16PIA0407).

The Harris County Tax Assessor-Collector (the "county tax assessor") received a request for a copy of all registered voters in the county, including the dates of birth of the voters. 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 information.

You inform us the information at issue was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2016-12219 (2016). In that ruling, we determined the county tax assessor must withhold the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note there is a change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the county tax assessor may not rely on Open Records Letter No. 2016-12219 as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (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 a prior attorney general ruling, ruling is addressed to same governmental

body, and ruling concludes that information is or is not excepted from disclosure). Thus, we will consider your argument against disclosure of the submitted information.

Next, you acknowledge the submitted dates of birth may be subject to required disclosure under chapter 18 of the Election Code. Pursuant to subchapter A of chapter 18 of the Election Code, the registrar in each county must prepare for each precinct a certified list of registered voters in the precinct. *See* Elec. Code §§ 18.001-.004 (discussing original, supplemental, registration correction, and revised original lists of registered voters), 12.001 (stating county tax assessor-collector is voter registrar for county). Each original and supplemental list of registered voters must contain the voter's name, date of birth, and registration number, the voter's residence address, except as provided by subsections (b) and (c) or section 18.0051, and the notation required by section 15.111 of the Election Code. *See id.* § 18.005(a)(1)-(2), (4); *see also id.* §§ 18.0051 (discussing substitute addresses in list of registered voters), 15.111(a) (explaining registrar shall enter certain notation on registered voter's list beside voter's name on suspense list). Section 18.008 of the Election Code provides, in part, as follows:

(a) The registrar shall furnish a copy of any list prepared under . . . subchapter [A of chapter 18] to any person requesting it. The copy shall be furnished without the names of voters whose names appear on a list with the notation "S", or a similar notation, if requested in that form.

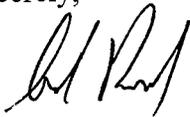
Id. § 18.008(a). We note the county tax assessor is the voter registrar for the county pursuant to section 12.001 of the Election Code. Therefore, we find section 18.008 of the Election Code is applicable to the instant request for information. You raise section 552.101 in conjunction with common-law privacy for the submitted dates of birth. As a general rule, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Further, information that is specifically made public by statute may not be withheld under section 552.101 of the Government Code on the basis of common-law privacy. *See Collins v. Tex Mall, L.P.*, 297 S. W.3d 409, 415 (Tex. App.—Fort Worth 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle); *Center Point Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Accordingly, the county tax assessor must release the submitted information pursuant to section 18.008 of the Election Code.

The county tax assessor asks this office to issue a previous determination permitting it to withhold the full and partial dates of birth of registered voters under section 552.101 of the Government Code in conjunction with common-law privacy. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular records at issue in the

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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/akg

Ref: ID# 629479

Enc. Submitted documents

c: Requestor
(w/o enclosures)