



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 15, 2020



Ms. Haksoon Andrea Low
Assistant General Counsel
Texas Ethics Commission
P.O. Box 12070
Austin, Texas 78711-2070

OR2020-25905

Dear Ms. Low:

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# 848338.

The Texas Ethics Commission (the "commission") received a request for financial statements for four named individuals. You state the commission does not have information responsive to the request pertaining to one of the named individuals.¹ You also state the commission has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state you notified one of the named individuals of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.² See Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. See *id.*

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. The commission states, and we agree, the submitted information is subject to chapter 572 of the Government Code. This chapter requires the mandatory

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

² As of the date of this letter, we have not received comments from the individual.

filing of annual personal financial statements by certain “state officers” with the commission and designates those statements as public records. *Id.* §§ 572.021 (“a state officer . . . shall file with the commission a verified financial statement complying with Sections 572.022 through 572.0252”), .032 (“Financial statements filed under this subchapter are public records.”). Under section 572.002, an “appointed officer of a major state agency” is included in the definition of a “state officer” for the purposes of this chapter. *Id.* § 572.002(12). Under section 572.003, “the administrative director of the Office of Court Administration of the Texas Judicial System [(the “OCA”)]” is included in the definition of an “appointed officer of a major state agency” for the purposes of chapter 572. *Id.* § 572.003(a), (b)(2). Thus, the submitted personal financial statement, which has been filed with the commission by the administrative director of the OCA in accordance with chapter 572 of the Government Code, is expressly made public by statute. However, section 572.032(a-1) provides the “home address, the telephone number, and the names of the dependent children of an individual” must be removed “from a financial statement filed by the individual” prior to permitting a member of the public to view the statement, providing a copy of the statement to a member of the public, or making a statement available on the commission’s website. *Id.* § 572.032(a-1), *as amended by* Act of May 30, 2017, 85th Leg., R.S., ch. 983, §1, 2017 Tex. Gen. Laws 4002, 4002. Accordingly, in releasing the submitted information, the commission must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 572.032(a-1) of the Government Code.

The commission also asks this office to issue a previous determination that would permit it to withhold certain information under section 552.101 of the Government Code in conjunction with section 572.032 of the Government Code without requesting a ruling from this office. *See id.* § 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. Therefore, 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Emily Kunst
Assistant Attorney General
Open Records Division

EK/rm

Ms. Haksoon Andrea Low - Page 3

Ref: ID# 848338

Enc. Submitted documents

c: Requestor

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INTER-AGENCY

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RECEIVED
OCT 16 2020
Texas Ethics Commission

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