



February 25, 2000

Sergeant Wyman Hopkins
City of Rosenberg
2120 Fourth Street
Rosenberg, Texas 77471

OR2000-0716

Dear Sergeant Hopkins:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132972.

The City of Rosenberg (the "city") received a request for a police report on the unauthorized use of a motor vehicle. You seek to withhold the requested information under section 552.108 of the Government Code.

We note initially that you have not submitted to this office a copy of the request for information. Section 552.301(e)(1)(B) of the Government Code requires that a governmental body seeking an attorney general decision as to whether it may withhold information submit to this office a copy of the written request for information no later than the 15th business day after it received the request. Section 552.302 provides that if a governmental body fails to timely submit the materials required by section 552.301, the requested information must be released unless there is a compelling reason to withhold the information. A compelling reason for withholding information under section 552.302 would be that the information is confidential by law or implicates third party interests. *See, e.g.,* Open Records Decision No. 150 (1977). The exception you claimed, section 552.108, does not furnish a compelling reason for withholding information. Therefore, none of the requested information may be withheld under section 552.108.

Some of the submitted information, however, is or may be confidential by law. Section 552.101 of the Government Code, requires withholding, *inter alia*, information made confidential by statute. Social security numbers that were obtained or maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990, are confidential pursuant to section 405(c)(2)(C)(viii) of title 42 of the United States Code.

Accordingly, the social security number in the submitted information must be withheld if it was obtained or maintained by the city pursuant to any provision of law enacted on or after October 1, 1990.

Section 552.130 of the Government Code provides in relevant part as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

The records at issue contain drivers license, license plate, and VIN numbers which are subject to section 552.130. The city must withhold these types of information pursuant to section 552.130.

Except as noted above, the city must release the requested information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839.

The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 132972

Encl. Submitted documents

cc: L & S Reporting Service, Inc.
P.O. Box 9874
Phoenix, Arizona
(w/o enclosures)