



April 19, 2000

Mr. Brett Bray
Division Director
Texas Department of Transportation
P.O. Box 2293
Austin, Texas 78768

OR2000-1557

Dear Mr. Bray:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134751.

The Texas Department of Transportation (the "department") received a request from the Texas Department of Public Safety for investigative purposes. Specifically, the requestor seeks information regarding the owners and the dealership of one specific company, as well as "any owner information" regarding a second company. You claim that a portion of the requested information is excepted from disclosure under section 52.251 of the Occupations Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow if it wishes to ask the attorney general for a decision determining whether requested information falls within an exception to disclosure. Among other requirements, the governmental body, "no later than the 15th business day after the date of receiving the written request," must submit to the attorney general "a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested." Gov't Code § 552.301(e)(1)(D). If the governmental body fails to do this, the requested information "is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information." Gov't Code § 552.302.

You state that the department received the request for information on February 15, 2000. Accordingly, the department's deadline for submitting a copy of the requested information,

or a representative sample thereof, expired fifteen business days later. *See* Gov't Code § 552.301(e)(1)(D). However, as of the date of this letter, the department has only submitted a redacted copy of the information. Therefore, the city has missed its fifteen-day deadline as prescribed by section 552.301. Consequently, absent a compelling reason to withhold the requested information, the information must be released.

You argue that portions of the requested information are confidential under section 552.101 in conjunction with section 52.251 of the Occupations Code. This office has held that a compelling reason exists to withhold information when the information is confidential by another source of law. *See* Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests). Accordingly, we will consider the department's argument for withholding portions of the requested information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Accordingly, section 552.101 encompasses confidentiality provisions such as section 52.251 of the Occupations Code. The relevant footnote to that statute reads:

[t]he social security number of an applicant for or holder of a license, certificate of registration, or other legal authorization issued by a licensing agency to practice in a specified occupation or profession that is provided to the licensing agency is confidential and is not subject to disclosure under the open records law.

Occupations Code § 51.251. The social security numbers at issue here appear on application materials for licenses issued by the department. The licenses would authorize the applicants to maintain a trailer/semitrailer dealership. Accordingly, we find that the social security numbers fall under section 52.251 as encompassed by section 552.101.

We also note that although you have not raised any arguments for withholding motor vehicle information, you have redacted Texas driver's license numbers contained in the requested information. Section 552.130 of the Government Code prohibits the release of information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Therefore, we find that the Texas driver's license numbers contained in the requested information fall under section 552.130.

However, while the confidentiality provisions discussed above prohibit the department from releasing the social security numbers and the driver's license numbers to the public, they do not prevent the department from releasing this information to another governmental body. A governmental body may transfer information to another governmental body without

violating the confidentiality of the information or waiving exceptions to disclosure. *See* Attorney General Opinion H-917 at 1 (1976); Open Records Decision No. 661 at 3 (1991). Therefore, the department has the discretion to release all of the requested information, including the social security numbers and driver's license numbers, to the governmental requestor without violating the relevant confidentiality provisions, and without implicating the Public Information Act's prohibition against selective disclosure. *See* Attorney General Opinion JM-119 at 2 (1983).

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,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 134751

Encl: Submitted documents

cc: Ms. Brenda Ivy
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(w/o enclosures)