



June 27, 2000

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

OR2000-2451

Dear Sergeant Hopkins:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 138214.

The City of Rosenberg (the "city") received a request for a copy of case report number 00-14794. You claim that the information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.301 of the Government Code requires a governmental body to release requested information or to request a decision from the Attorney General within 10 business days of receiving a request for information the governmental body wishes to withhold. You state that you received this request for information on June 1, 2000. However, your request for a decision from this office was postmarked June 16, 2000. Consequently, you failed to request a decision by June 15, 2000, the 10 business day deadline required by section 552.301(b) of the Government Code.

When a governmental body fails to request a decision within 10 business days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold

the information to overcome this presumption. *See Hancock*, 797 S.W.2d at 381-82. You claim that the documents submitted are excepted from disclosure under section 552.108. Section 552.108 is a discretionary exception that the city has waived through noncompliance with section 552.301; however, information that is confidential by law must be withheld despite noncompliance with the requirements of the Act.

Section 552.130 of the Government Code excepts from disclosure 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, you must withhold all Texas driver's license numbers, license plate numbers, and VIN numbers.

The social security numbers contained in your records may be confidential if they were obtained or are maintained by the department pursuant to any provision of law, enacted on or after October 1, 1990. 42 U.S.C. § 405(c)(2)(C)(viii)(I); *see* Open Records Decision No. 622 (1994). Section 552.352 of the Government Code provides criminal penalties for the release of information considered confidential under chapter 552. A violation under section 552.352 is a misdemeanor constituting official misconduct. Gov't Code § 552.352(b), (c).

In summary, with the exception of all Texas driver's license numbers, license plate numbers, and VIN numbers, and any social security numbers made confidential by federal law, the city must release the submitted information to the requestor.

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,



Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/ljp

Ref: ID#

Encl. Submitted documents

cc: Ms. Tammy Quackenbush  
Claim Department  
Allied Property & Casualty Insurance Company  
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(w/o enclosures)