



December 14, 2001

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

OR2001-5852

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# 156150.

The Texas Department of Transportation (the "department") received a request for the repair history of a specific vehicle, as well as the name, address, and telephone number of the seller and the buyer. You ask whether the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with the doctrine of common-law privacy and chapter 730 of the Transportation Code. We have considered your arguments and reviewed the submitted information.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. You assert that the requestor seeks personal information which is prohibited from release under chapter 730 of the Transportation Code. Specifically, you state that, pursuant to sections 730.004 through 730.008 of the Transportation Code, the department is prohibited from disclosing personal information about any person obtained by the department in connection with a motor vehicle record, unless the requestor is an authorized recipient. We note that a "motor vehicle record" is defined as "a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document." Transp. Code § 730.003(4). In this instance, the submitted documents are the complaint records and the repair bills for a specific vehicle. It does not appear, nor do you explain, how these documents fit within the definition of a motor vehicle record. Furthermore, you state that the department "was able to determine the vehicle was required under the lemon law without relying on information obtained through the title or registration

process.” Thus, we conclude that the department may not withhold the personal information contained in the submitted records under section 552.101 in conjunction with chapter 730 of the Transportation Code.

Section 552.101 also encompasses the doctrine of common-law privacy. Information is protected by common-law privacy when (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). You state that the dealer and original purchaser may have a privacy interest in their names, addresses, and telephone numbers. This office has ruled that, absent special circumstances, names, addresses, and telephone numbers are not “intimate” information. *See generally* Open Records Decisions Nos. 478 (1987), 455 (1987). Furthermore, after reviewing your arguments, we agree that the submitted personal information is not protected by common-law privacy.

We note, however, that the submitted records contain information that is protected by section 552.130. Section 552.130 of the Government Code excepts 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, the department must withhold the marked vehicle identification and license plate numbers found in the submitted documents. The remaining submitted information must, however, be released.

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;

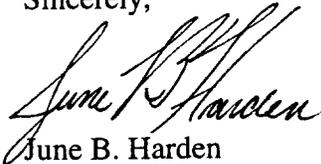
2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things 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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/seg

Ref: ID# 156150

Enc. Submitted documents

c: Ms. Glenda Hollabaugh
4000 Kingston Road
Amarillo, Texas 79109
(w/o enclosures)