



May 29, 2002

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

OR2002-2882

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# 163561.

The Texas Department of Transportation (the "department") received a request for "all information about the owners/principals" of five listed motor vehicle dealers. You state that you do not have information regarding two of the named dealers and inform us that you have released information relating to a third dealer after redacting certain motor vehicle record information and social security numbers in accordance with previous determinations of this office.<sup>1</sup> See Open Records Letter Nos. 2001-6050 (2001); 2001-4775 (2001); *see also* Open Records Decision No. 673 at 7-8 (2001) (criteria of previous determination for information in specific, clearly delineated categories). As for information about the remaining two dealers, you indicate that you will redact certain motor vehicle record information and social security numbers but state that you do not wish to withhold any other information. You have, however, notified the dealers of the request for information and their opportunity to submit comments to this office. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have reviewed the information at issue and considered all submitted comments.

An interested third party is allowed 10 business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why

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<sup>1</sup> We note that the submitted information includes photographs depicting vehicle license numbers. We assume that the department redacted these numbers in accordance with Open Records Letter No. 2001-4775 (2001), as these numbers are made confidential by section 552.130 of the Government Code.

information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any correspondence from one of the third parties. We have received a letter from the other third party, but they do not claim any exceptions to disclosure. Under these circumstances, we have no basis for concluding that the submitted information is excepted from disclosure. *See e.g.*, Gov't Code § 552.110(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm); Open Records Decision Nos. 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Therefore, the department may not withhold any of the submitted information other than the motor vehicle record information and social security numbers for which it has been granted previous determinations.

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).

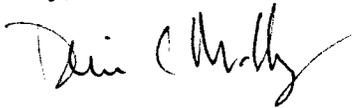
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Denis C. McElroy  
Assistant Attorney General  
Open Records Division

DCM/seg

Ref: ID# 163561

Enc. Submitted documents

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