



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

January 2, 2003

Mr. G. Chadwick Weaver  
First Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2003-0045

Dear Mr. Weaver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 176842.

The City of Midland (the "City") received a request for information concerning case number 0107190032. You indicate you have released a redacted version of the responsive information to the requestor. You assert that the redacted portions of the information are excepted from disclosure under sections 552.130 and 411.086 of the Government Code. We have reviewed the information you submitted and considered the exceptions you claim.

First, you inform us that you withheld from the requestor responsive information relating to motor vehicle records. Section 552.130 of the Government Code excepts from public disclosure information relating to a driver's license, license plate, or motor vehicle title or registration issued by an agency of this state. However, a person has a special right of access, beyond the general public, to information held by a governmental body that relates to the person and is protected from public disclosure by laws intended to protect a person's privacy interests. Gov't Code § 552.023(a). In this case, the submitted information contains driver's license numbers, one of which belongs to the requestor, who has a special right of access to this information. Therefore, the City must withhold only the Texas driver's license number in the submitted documents under section 552.130 that does not belong to the requestor.

Next, you state that you withheld the social security number in the submitted information based on section 411.086 of the Government Code. Section 552.101 excepts from required

public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Social security numbers and related records are excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if the social security number information was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994).* You claim that the social security number contained in Exhibit B falls under the federal Social Security Act because it was obtained pursuant to section 411.086 of the Government Code. That provision contemplates rules that the Department of Public Safety (“DPS”) shall adopt in regard to requests for criminal history information. Section 411.086(b)(2) states that such rules “may require a person requesting criminal history information about an individual to submit to [DPS] one or more of the following: . . . (E) any known identifying number of the individual, including social security number . . . .”

While you state that the collection of social security numbers “by police officers helps establish identities of criminals,” you do not specifically state whether the City obtained or maintained the social security number at issue in order to request criminal history information from DPS. Moreover, you do not inform us as to whether DPS actually requires or required the City to submit the social security number at issue in order to request criminal history information. We find that if the City obtained or maintains the social security number in order to request criminal history information from DPS, and if DPS actually requires or required the City to submit the social security number with its request for criminal history information, then the social security number is confidential under section 411.086 of the Government Code in conjunction with federal law.

Finally, we note that the submitted documents contain a credit card account number that is subject to section 552.136 of the Government Code. Section 552.136 makes certain access device numbers confidential and provides in pertinent part:

(a) In this section, “access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value;
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. A person has a special right of access, beyond the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect a person's privacy interests. Gov't Code § 552.023(a). In this case, the submitted information contains the requestor's account number and she has a special right of access to this information. Therefore, the City must release the account number pursuant to section 552.023(a) of the Government Code.

To summarize: the City must (1) withhold the driver's license number we have marked under section 552.130; (2) withhold the social security number marked under section 411.086 of the Government Code in conjunction with federal law if the City obtained or maintains the social security number in order to request criminal history information from DPS, and if DPS actually requires or required the City to submit the social security number with its request for criminal history information; and 3) release the requestor's credit card account number and driver's license number.

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,



Christen Sorrell  
Assistant Attorney General  
Open Records Division

CHS/seg

Ref: ID# 176842

Enc: Submitted documents

c: Ms. Mary Rivera  
c/o City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152  
(w/o enclosures)