



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

October 1, 2004

Ms. Sharon Alexander  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR2004-8343

Dear Ms. Alexander:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 210170.

The Texas Department of Transportation (the "department") received a request for "the year, make, and model of any motor vehicle that is currently registered in the name of Kalina Industrial Services, Inc. or Marvin Kalina Forklift Services." You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

As a preliminary matter, in your comments to this office you state the following:

In the State of Texas, a vehicle owner is not required to use a legal name when registering a vehicle. Because of this issue, no warranty or assurance is given or implied regarding the accuracy or completeness of search by

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<sup>1</sup> We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

name. . . . The search results may or may not be an exhaustive list of motor vehicle records from the [department] database matching the inquiry criteria provided.

We understand you to represent that the department may possess additional responsive information beyond what the department is able to obtain by a search by name. We note that under the Public Information Act (the "Act"), a governmental body has a duty to make a good faith effort to relate a request for information to information that the governmental body holds. Open Records Decision No. 561 (1990); *see also Indus. Found. v. Tex. Indus. Accident Bd.*, 540S.W.2d 668, 687 (Tex. 1976) (administrative difficulty of producing information subject to Act is not basis for withholding it). We presume the department has made such a good faith effort to relate the present request to motor vehicle records from the department's database.

Section 552.130 of the Government Code provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Gov't Code § 552.130. You contend that the requested information is derived from the department's motor vehicle title and registration records and is therefore excepted from disclosure under section 552.130 of the Government Code. Based on your representations and our review, we determine that the information at issue is within the scope of section 552.130(a). You further indicate that chapter 730 of the Transportation Code does not authorize disclosure of the requested information in this instance. *See* Gov't Code § 552.130(b).

Chapter 730 of the Transportation Code codifies the Motor Vehicle Records Disclosure Act, which prohibits the disclosure and use of personal information contained in motor vehicle records by an agency that compiles and maintains motor vehicle records, except as authorized by the individual or the law. *See* Transp. Code §§ 730.001-.003. The department

is an agency that compiles and maintains motor vehicle records for purposes of chapter 730. Under section 730.004, the department "may not disclose personal information about any person obtained by [the department] in connection with a motor vehicle record," except as authorized under chapter 730. *See* Transp. Code §§ 730.004, 730.005 (required disclosures of personal information), 730.007 (permitted disclosures of personal information); *see also* Transp. Code §§ 730.003(5) ("person" means individual, organization, or entity). We understand you to assert that the requested information consists of personal information obtained by the department in connection with a motor vehicle record.

"Personal information" that is prohibited from disclosure under section 730.004 is defined at section 730.003, which provides in pertinent part:

"Personal information means" information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information. The term does not include:

- (A) information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status[.]

Transp. Code § 730.003(6). In this case, the requestor has not asked for information that identifies a person. We therefore find that the present request does not require the department to release "personal information" from the department's motor vehicle records. Section 552.130(b) of the Government Code provides for the release of motor vehicle record information if such release is authorized under chapter 730 of the Transportation Code. Because section 730.004 only prohibits the disclosure of personal information, and because we find that the requested information is not personal information, we determine that release of the information at issue is authorized under chapter 730. *See* Transp. Code § 730.004. We therefore conclude the department must release the requested information to the requestor.

You ask this office to issue the department a previous determination for motor vehicle registration information. We decline to issue a previous determination at this time. This letter ruling is therefore limited to the particular records at issue in the present request and the facts as presented to us, and 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 thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten 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 ten 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 ten 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); *Tex. Dep't of Pub. 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 ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Ref: ID#

Enc: Submitted documents

c: Mr. David Johnson  
Thompson & Knight  
98 San Jacinto Boulevard  
Suite 1900  
Austin, Texas 78701  
(w/o enclosures)