



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 24, 2005

Ms. Patricia E. Carls
Brown & Carls, L.L.P.
106 East Sixth Street, Suite 550
Austin, Texas 78701

OR2005-05613

Dear Ms. Carls:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 226925.

The City of Georgetown (the "city"), which you represent, received two requests for information and photos related to a specific traffic accident. You state that you have provided the requestors with some of the requested information. You claim, however, that portions of the submitted information are 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 information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. Section 730.004 of the Transportation Code provides:

Notwithstanding any other provisions of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005 - 730.008, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Transp. Code § 730.004. Section 730.003 provides that, for purposes of chapter 730 of the Transportation Code:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means 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. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

Transp. Code § 730.003(1), (4). Section 730.004 only applies to an "agency" that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(1). You have failed to demonstrate how the city constitutes an agency that compiles or maintains motor vehicle records for the purposes of chapter 730. Accordingly, none of the submitted information may be withheld under section 552.101 in conjunction with section 730.004 of the Transportation Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

You also raise section 552.130 of the Government Code. Section 552.130 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." Gov't Code § 552.130. Accordingly, the city must withhold the Texas driver's license numbers and motor vehicle information we have marked pursuant to section 552.130 of the Government Code.

We note that the remaining submitted information contains an insurance policy number. Section 552.136 of the Government Code states that "[n]otwithstanding 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."¹ Gov't Code § 552.136. The city must, therefore, withhold the policy number we have marked under section 552.136 of the Government Code.

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the information we have marked pursuant to sections 552.130 and 552.136 of the Government Code. The remaining submitted information must 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 10 calendar days of the date of this ruling.

Sincerely,



Lauren E. Kleine
Assistant Attorney General
Open Records Division

LEK/jev

Ref: ID# 226925

Enc. Submitted documents

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