



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 21, 2006

Ms. Julie Joe  
Assistant County Attorney  
County of Travis  
Transactions Division  
P. O. Box 1748  
Austin, Texas 78767

OR2006-06534

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 252012.

The Travis County Sheriff's Office (the "sheriff") received a request for a specified incident report. You claim that portions of the submitted information are excepted from disclosure under section 552.130 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

As you acknowledge, the sheriff did not seek an open records decision from this office within the statutory deadlines. *See* Gov't Code § 552.301(b) (governmental body must ask for a decision from this office and state the exceptions that apply not later than the tenth business day after the date of receiving the written request), (e) (requires submission of certain information within fifteen business days of receipt of request for information). The sheriff's delay in this matter results in the presumption that the requested information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.—Austin 1990, no writ). In order to overcome the presumption that the requested information is public, a governmental body must provide compelling reasons why the information should not be

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<sup>1</sup>In your April 21, 2006 letter to this office, you withdrew your previous assertions under section 552.101, 552.108, and 552.147 of the Government Code.

disclosed. *Hancock*, 797 S.W.2d at 381. Because section 552.130 of the Government Code can provide a compelling reason against disclosure, we will consider your arguments under this exception.

Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1), (2). You seek to withhold registration information relating to a boat. You assert that this information is "motor vehicle information" that is excepted under section 552.130. However, Texas courts have consistently held that boats, even those utilizing motorized engines, are not "motor vehicles" under Texas law and the ordinary meaning of the term. *See Ozolins v. North Lake Community College*, 805 S.W.2d 614 (Tex. App.—Fort Worth 1991) (a sailboat, even one that contains a motor, is not a motor vehicle). Accordingly, boat registration information is not excepted and may not be withheld pursuant to section 552.130. The 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 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

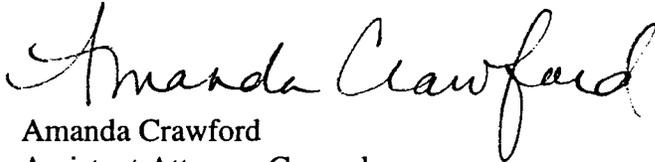
Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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); *Texas 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 Office of the Attorney General 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,



Amanda Crawford  
Assistant Attorney General  
Open Records Division

AEC/krl

Ref: ID# 252012

Enc. Submitted documents

c: Mr. Larry LaTulip  
3901 RR 620 West #322  
Austin, Texas 78726  
(w/o enclosures)