



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2007

Mr. Scott A. Kelly
Deputy General Counsel
Texas A&M System
2002 Technology Way Suite 2079
College Station, Texas 77845-3424

OR2007-15739

Dear Mr. Kelly:

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# 296462.

The Texas A&M University Police Department (the "department") received a request for a specified report. You claim that some of 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 have reviewed the information you submitted.

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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 681.003 of the Transportation Code, which provides in part that "[i]nformation concerning the name or address of a person to whom a disabled parking placard is issued or in whose behalf a disabled parking placard is issued is confidential and not subject to disclosure under [the Act]." Transp. Code § 681.003(d). Having considered your arguments, we have marked the submitted information that is confidential under section 681.003(d) and must be withheld from disclosure under section 552.101 of the Government Code. Although you are concerned that the department may also be required to withhold other information on this basis, we find that section 681.003(d) is not applicable to any of the other information that you have marked. We therefore conclude that the department may not withhold any of the

remaining information under section 552.101 in conjunction with section 681.003(d) of the Transportation Code. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection).

Section 552.130 of the Government Code excepts from disclosure information that is related to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). We agree that the department must withhold the Texas driver's license information that you have marked under section 552.130 of the Government Code.

In summary: (1) the department must withhold the information that we have marked under section 552.101 of the Government Code in conjunction with section 681.003(d) of the Transportation Code; and (2) the Texas driver's license information that you have marked must be withheld under section 552.130 of the Government Code. The rest of the submitted information must be released.¹

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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

¹We note that the department would ordinarily be required to withhold other information contained in the submitted documents to protect the requestor's privacy. In this instance, however, the requestor has a right of access to that information. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Should the department receive another request for these same records from a person who would not have a right of access to this requestor's private information, the department should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302.

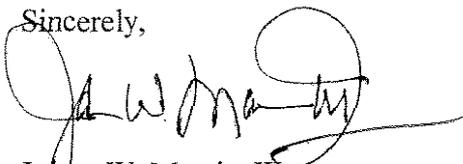
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental 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 challenge 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ma

Ref: ID# 296462

Enc: Submitted documents

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(w/o enclosures)