



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2007

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
1500 Marilla, Room 7BN
Dallas, Texas 75201

OR2007-16257

Dear Mr. Toscano:

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# 296802.

The City of Dallas (the "city") received a request for information related to an accident involving the requestor's client on a particular date at a specified location. You state that some responsive information has been released to the requestor. 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 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. Section 552.101 encompasses section 730.004 of the Transportation Code, which provides that "[n]otwithstanding any other provision of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005 -730.007, 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. *See also id.* § 730.003(4) (defining motor vehicle record to include 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). Section 552.101 also encompasses

section 730.013, which provides that for purposes of chapter 730 of the Transportation Code:

(a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical format the personal information [sic] was disclosed to the recipient by the applicable agency.

(b) An authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.

(c) Any authorized recipient who resells or rediscloses personal information obtained from an agency shall be required by that agency to:

(1) maintain for a period of not less than five years records as to any person or entity receiving that information and the permitted use for which it was obtained; and

(2) provide copies of those records to the agency on request.

(d) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$25,000.

Transp. Code § 730.013. You state that the city contracts with a third party, ACS State & Local Solutions, Inc. (“ACS”), to “provide hosting and associated services to support the outsourcing of the operations and maintenance of computer applications forming a red light camera enforcement hosted system.” We understand that the city obtains license plate numbers, which are captured by red light cameras, of vehicles that proceed through intersections against the light. You indicate that ACS then uses the license plate numbers to obtain additional motor vehicle record information from the Texas Department of Transportation (“TXDOT”). We note that TXDOT is an agency under section 730.003(1) that obtains or compiles motor vehicle records. We further note that the names and addresses, but not the zip code, of the owners of Texas registered vehicles obtained by ACS from TXDOT are considered personal information under section 730.003(6). *See id.* §730.003(6) (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). Accordingly, we find that, by obtaining motor vehicle information from TXDOT to assist the city in carrying out its functions, ACS is an authorized recipient of personal information for purposes of section 730.013. *See id.* § 730.007(a)(2)(A)(ii) (authorized recipient includes a private entity acting on behalf of a government agency in carrying out the agency’s functions).

Based upon your representations and our review of the information at issue, we conclude that, because the names and addresses of owners of Texas registered vehicles were obtained from TXDOT by an authorized recipient, and because this information is in the identical or substantially identical format that it was received by ACS from TXDOT, the names and addresses, but not the zip codes, of owners of Texas registered vehicles are confidential under section 730.013(a) of the Transportation Code. Accordingly, as we have no indication that release of this information would be for a use permitted under section 730.007, we conclude that the highlighted owners' names and addresses must be withheld under section 552.101 of the Government Code. The remaining responsive information, including the state of registration and the owners' zip code, does not consist of personal information for the purposes of section 730.003(6). Therefore, this information may not be withheld under section 552.101 in conjunction with section 730.013(a).

You claim that some of the remaining submitted information is excepted from public disclosure under 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. The city must withhold the license plate numbers that we have marked in Exhibit D under section 552.130. The submitted information also includes a video recording that includes Texas license plate numbers, which are subject to section 552.130. Accordingly, the city must withhold the Texas motor vehicle record information in the submitted video recording under section 552.130 of the Government Code. As you state that the city lacks the technical capability to redact this information from the video recording, it must withhold this recording in its entirety. *See* Open Records Decision No. 364 (1983).

In summary, the highlighted owners' names and addresses in Exhibit D are confidential under section 730.013(a) of the Transportation Code and must be withheld under section 552.101 of the Government Code. The city must withhold the marked license plate number in Exhibit D and the entirety of the video submitted in Exhibit B under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor¹.

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

¹As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information.

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 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/mcf

Ref: ID# 296802

Enc. Submitted documents

c: Mr. Andrew Gunn
The Carlson Law Firm, P.C.
2225 East Randol Mill Road, Suite 600
Arlington, Texas 76011
(w/o enclosures)