



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 28, 2008

Mr. David M. Swope
Harris County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002

OR2008-02720

Dear Mr. Swope:

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 #303445.

The Harris County Toll Road Authority (the "authority") received a request for information pertaining to a specified transaction between the authority and the requestor. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and 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 other statutes make confidential. Section 730.004 of the Transportation Code provides that "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. "Personal information" includes a person's name and address but not the zip code. *Id.* § 730.003(6). The Texas Department of Transportation is an "agency" for purposes of chapter 730. *See id.* § 730.003(1) ("agency" is state agency that compiles or maintains motor vehicle records). You inform us that pursuant to the contract that you have provided between the Texas Department of Transportation ("TxDOT") and the authority, TxDOT provides the authority with information, including individuals' personal information used in the authority's database, for use in carrying out its governmental functions. *See id.* § 730.007(a)(2)(A)(I) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Based on the authority's representations and

our review, we agree that the personal information of the individual obtained from TxDOT must be withheld. Accordingly, we have marked the information that must be withheld from disclosure under section 730.004 of the Transportation Code in conjunction with section 552.101 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130. We marked a Texas driver's license number, license plate numbers, and a vehicle identification number that the authority must withhold under section 552.130 of the Government Code.

You assert that some of the remaining submitted information is excepted under section 552.136 of the Government Code. Section 552.136(b) provides 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." Upon review, the authority must withhold the credit card account number we have marked under section 552.136 of the Government Code.

Finally, we note that some of the submitted information is subject to section 552.137 of the Government Code which excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).¹ *Id.* § 552.137(a)-(c). The e-mail address that we marked does not appear to be of a type specifically excluded by section 552.137(c). Therefore, the authority must withhold the e-mail address we have marked under section 552.137 of the Government Code.

In summary, the authority must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code. The authority must also withhold the information we have marked under sections 552.130, 552.136, and 552.137 of the Government Code. The remaining information must be released to the requestor.

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

¹The 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).

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,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 303445

Enc. Submitted documents

c: Mr. Steve Benys
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(w/o enclosures)