



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2008

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2008-06080

Dear Ms. Byles:

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# 309151.

The City of Fort Worth (the "city") received a request for any reports or records pertaining to a specified accident and stolen vehicle incident. You state that the city has released most of the requested information, but you claim that some of the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. You also inform us that the city has redacted certain Texas motor vehicle record information pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007).¹ See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). In addition, you state that the city has redacted social security numbers pursuant to section 552.147 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

¹We have marked additional Texas motor vehicle record information that the city must withhold under section 552.130 of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 and 2007-00198.

²Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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 other statutes, including chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218 and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service provider confidential. *Id.* at 2. Section 772.218 applies to an emergency communications district for a county with a population of more than 860,000.

You state that the city is part of an emergency communications district established under section 772.218. You explain that the information that you have marked was furnished by a 9-1-1 service provider. Based on your representations, we conclude that the city must withhold the marked telephone numbers and addresses under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. However, the cellular telephone service provider information that you have marked does not constitute an originating telephone number or address for the purpose of section 772.218 of the Health and Safety Code, and it may not be withheld on that basis. Accordingly, the cellular telephone service provider information, which we have marked, must be released.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of [the Act], 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." Gov't Code § 552.136(b); see *id.* § 552.136(a) (defining "access device"). The city must withhold the insurance policy number we have marked under section 552.136. However, you do not explain, and we cannot discern, how the claim number you have highlighted constitutes an access device number for purposes of section 552.136; therefore, the city may not withhold the highlighted claim number under section 552.136.

In summary, with the exception of the information we have marked for release, the city must withhold the telephone numbers and addresses you have marked under section 552.101 in conjunction with section 772.218 of the Health and Safety Code. The city must also withhold the insurance policy number we have marked under section 552.136. The remaining submitted 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

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,



Allan D. Meesey
Assistant Attorney General
Open Records Division

ADM/eeg

Ref: ID# 309151

Enc. Submitted documents

c: Ms. Carol Lylte
DeHart & Crockett, P.C.
320 Hemphill Street
Fort Worth, Texas 76104
(w/o enclosures)