



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2009

Mr. Gregory A. Alicie
Open Records Specialist
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2009-04225

Dear Mr. Alicie:

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# 339953 (PIR# 1088).

The Baytown Police Department (the "department") received a request for all photos or videos taken by a specific red light camera at a specific time. You claim that the submitted 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.

Initially, we must address the department's obligations under section 552.301 of the Government Code. Within fifteen days of receiving a request, the governmental body must submit to this office several items, including a copy of the original written request for information. *See* Gov't Code § 552.301(e)(1)(A)-(D). You state that the department received the written request on January 28, 2009, but, as of the date of this ruling, you have not submitted to this office a copy of the requestor's original written request as required by section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information. *See id.* § 552.302; *Hancock*

v. State Bd. of Ins., 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). Normally, a compelling interest is demonstrated when some other source of law makes the information at issue confidential or third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). In this instance, you argue that the submitted information is confidential under section 552.101 of the Government Code in conjunction with section 707.006 of the Transportation Code and, alternatively, that portions of the submitted information are confidential under section 552.130 of the Government Code. Because sections 552.101 and 552.130 can provide compelling reasons to withhold the information at issue, we will consider your arguments under these sections.

Section 552.101 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 thus encompasses statutes such as section 707.006 of the Transportation Code, which provides:

~~(a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.~~

(b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

(c) An offense under this section is a Class A misdemeanor.

Transp. Code § 707.006. We note that section 707.006 does not expressly make information confidential. In order for section 552.101 to apply, a statute must contain language expressly making certain information confidential; confidentiality cannot be implied from the structure of a statute or rule. *See* Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987), 465 at 4-5 (1987). Accordingly, the department may not withhold the submitted information pursuant to section 552.101 of the Government Code in conjunction with section 707.006 of the Transportation Code.

You also raise section 552.130 of the Government Code for portions of the submitted information. 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. We note that the requestor is one of the individuals whose Texas motor vehicle record information may be at issue. Under section 552.023 of the Government Code, a person has a special right of access to information that pertains to himself. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, the department must obscure only

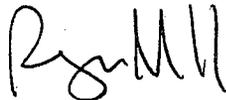
Texas license plate numbers belonging to persons other than the requestor before releasing the submitted information.¹

In summary, the department must withhold Texas motor vehicle record information belonging to persons other than the requestor under section 552.130 of the Government Code. The department must release the remainder of the submitted information.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 339953

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

¹Should the city receive another request for this same information from a person who would not have a right of access to the requestor's private information, the city should resubmit this information and request another decision. See Gov't Code §§ 552.301, .302.