



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2009

Mr. Thomas Bailey
Legal Services
VIA Metropolitan Transit
P.O. Box 12489
San Antonio, Texas 787212

OR2009-05931

Dear Mr. Bailey:

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# 342109.

VIA Metropolitan Transit ("VIA") received a request for the videos from the two VIA vehicles involved in a specified collision. You claim that the submitted videos are excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted video recordings.

We note that the precise information at issue was the subject of a previous request of information received by VIA, a result of which this office issued Open Records Letter No. 2009-03467 (2009). In that ruling, we held that VIA failed to demonstrate the applicability of section 552.103 of the Government Code to the submitted video recordings. We also held that VIA must withhold Texas motor vehicle record information from the video recordings under section 552.130 of the Government Code. Accordingly, we held that, with the exception of the information subject to section 552.130, VIA must release the submitted video recordings. We note that information that has been previously released to the public may not be withheld from a subsequent requestor unless the governmental body is able to demonstrate that the information is confidential by law or that release is prohibited by law. See Gov't Code § 552.007. Although you raise section 552.103 of the Government Code, this section is a discretionary exception that protects a governmental body's interests and may be waived. See *Dallas Area Rapid Transit v. Dallas Morning*

News, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103). As such, section 552.103 does not make information confidential or prohibit its release. Further, VIA does not raise any additional arguments for withholding the submitted video recordings. We therefore conclude that VIA must continue to withhold or release the submitted video recordings in accordance with Open Records Letter No. 2009-03467 (2009).

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,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/dls

Ref: ID# 342109

Enc. Submitted documents

c: Requestor
(w/o enclosures)