



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2009

Mr. Hyattye O. Simmons
General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2009-11687

Dear Mr. Simmons:

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# 353149.

The Dallas Area Rapid Transit ("DART") received a request for information pertaining to a specified accident involving a DART bus. You state that some responsive information has been released to the requestor. You claim that some of the submitted information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code 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 have marked the Texas motor vehicle record information that is subject to section 552.130 of the Government Code.

We note, however, that because this exception protects personal privacy, the requestor may have a right of access to some of the motor vehicle record information at issue pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information

concerning self).¹ Thus, if the requestor is acting as the authorized representative of the driver of the vehicle at issue or has an ownership interest in the vehicle, the marked information pertaining to the driver at issue may not be withheld from this requestor pursuant to section 552.130. In that case, the remaining information that we have marked, which pertains to the bus and bus driver, must be withheld under section 552.130. However, if the requestor is not the authorized representative of the driver of the vehicle or does not have an ownership interest in the vehicle, all of the marked Texas motor vehicle record information must be withheld pursuant to section 552.130 of the Government Code.

Section 552.136 of the Government Code states 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.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Accordingly, DART must withhold the insurance policy number we marked under section 552.136 of the Government Code.

In summary, if the requestor does not have a right of access to any of the Texas motor vehicle record information pursuant to section 552.023 of the Government Code, then DART must withhold the information we have marked under sections 552.130 and 552.136 of the Government Code. If the requestor has a right of access to some of the Texas motor vehicle record information pursuant to section 552.023 of the Government Code, then DART must withhold the Texas motor vehicle record information pertaining to the bus and bus driver under section 552.130 of the Government Code and the marked insurance policy number under section 552.136 of the Government Code. The remaining submitted information must be released.²

Finally, you request that this office issue a “previous determination” that would permit DART in the future to withhold from disclosure (1) Texas driver’s license, motor vehicle title or registration numbers, and personal identification documents under section 552.130 of the Government Code; and (2) insurance policy numbers, without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time.

¹Section 552.023(a) provides that “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.” Gov’t Code § 552.023(a).

²We note the remaining information contains a social security number. Section 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.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 353149

Enc. Submitted documents

c: Requestor
(w/o enclosures)