



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 12, 2010

Ms. Andrea M. Gardner
City Manager
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR2010-06806

Dear Ms. Gardner:

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# 384340.

The City of Copperas Cove (the "city") received a request for information pertaining to a specified case number.¹ You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the city's obligations under the Act. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). As of the date of this letter, you have not submitted to this office a complete copy of the written request for information. Consequently, we find the city has failed to comply with the requirements of section 552.301.

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

¹As you have not submitted a complete copy of the written request for information, we take our description from your brief.

§ 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will consider the applicability of this exception to the submitted information.

Section 552.101 excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This exception encompasses section 550.065 of the Transportation Code, which provides in relevant part as follows:

(a) This section applies only to information that is held by the [Texas Department of Transportation (the “department”)]² or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004 [of the Transportation Code], including accident report information compiled under Section 201.805 [of the Transportation Code].³

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use of:

(1) the department; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(c) On written request and payment of any required fee, the department or the governmental entity shall release the information to:

...

(4) a person who provides the department or governmental entity with two or more of the following:

(A) the date of the accident;

²Transp. Code § 550.0601 (“department” means the Texas Department of Transportation).

³We note the 81st Legislature renumbered section 201.805 to section 201.806 of the Transportation Code. Act of May 20, 2009, 81st Leg., ch. 87, § 27.001(90), 2009 Tex. Gen. Laws 208, 381.

(B) the specific address or the highway or street where the accident occurred; or

(C) the name of any person involved in the accident.

...

(e) In addition to the information required to be released under Subsection (c), the department may release:

(1) information relating to motor vehicle accidents that the department compiles under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007[.]⁴

...

(f) The department:

(1) may not release under Subsection (e) information that:

...

(B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information for a specific motor vehicle accident[.]

Transp. Code § 550.065(a)-(c), (e)-(f) (footnotes added). You claim the submitted information, which consists of the city's accident case report and narrative, is exempted from disclosure under section 550.065(f). Section 550.065(f) refers to the information addressed in section 550.065(e), which is the information in the database referred to as the Crash Records Information System ("CRIS"). *See id.* § 550.065(e), (f); *see also* Senate Comm. on Transportation and Homeland Security, Bill Analysis, Tex. S.B. 375, 81st Leg., R.S. (2009). The department, not the city, maintains CRIS as required by section 201.806 of the Transportation Code. *See* Transp. Code § 201.806. Thus, section 550.065(f)(1)(B) addresses only the department and applies only to the department. Consequently, the city's accident case report and narrative are not made confidential by section 550.065(f)(1)(B). Thus, the city may not withhold this information under section 552.101 on that basis.

⁴As previously noted, this section has been renumbered to section 201.806 of the Transportation Code. *Id.*

We note, however, that the submitted information contains information that is subject to section 552.130 of the Government Code.⁵ Section 552.130 excepts from disclosure information that relates to a Texas motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(2). The city must withhold the Texas license plate numbers we have marked under section 552.130 of the Government Code.⁶ The remaining information must be released.

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, toll free at (888) 672-6787.

Sincerely,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 384340

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁵The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁶We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.