



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2010

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

OR2010-14226

Dear Mr. Reinwand:

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# 393865 (Arlington Police Department Reference No. 1325-070110).

The Arlington Police Department (the "department") received a request for specific records related to a motor vehicle accident.¹ You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the department's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the written request for information. *See* Gov't Code § 552.301(e)(1)(B). You state that the department received the request at issue on July 1, 2010. The department provided this office with a copy of the facsimile cover sheet for the request on July 15, 2010. The facsimile cover sheet indicates that the facsimile consisted of two pages, but the cover sheet does not consist of

¹As you have only submitted the facsimile cover sheet to the request, we take our description from the submitted information.

the actual request for information. To date, you have not provided this office with a copy of the actual request for information. Thus, we find that the department has failed to comply with the requirements mandated by section 552.301(e).

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 that 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.* § 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); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by law. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Although you raise section 552.108 of the Government Code, this section is a discretionary exception that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the department may not withhold the submitted information under section 552.108 of the Government Code. However, we note that portions of the submitted information may be excepted from disclosure under section 552.130 of the Government Code.² Because section 552.130 can provide a compelling reason for non-disclosure under section 552.302, we will address this exception.

Section 552.130 of the Government Code excepts from disclosure information relating to a Texas motor vehicle title or registration. Gov't Code § 552.130. We note that section 552.130 does not apply to out-of-state motor vehicle record information. In this instance, we are unable to discern whether the information we have marked, and the corresponding information in the second 9-1-1 call recording, consists of Texas license plate numbers. Therefore, to the extent the information we have marked, and the corresponding information in the second 9-1-1 call recording, consists of Texas license plate numbers, they must be withheld under section 552.130 of the Government Code. If the license plate numbers were not issued by an agency of this state, the department may not withhold them under section 552.130. As you raise no further exceptions against disclosure of the remaining information, it must be released to the requestor.

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.

²The 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).

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,


Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/eb

Ref: ID# 393865

Enc. Submitted documents

c: Requestor
(w/o enclosures)