



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 4, 2010

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
600 North Bell Boulevard
Cedar Park, Texas 78613

OR2010-16753

Dear Ms. Quinn:

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# 399292 (City of Cedar Park Reference No. 10-632).

The City of Cedar Park (the "city") received a request for harassment records involving a named individual and two specified addresses from May 2007 to 2009. You state the city released a portion of the submitted information to the requestor. You claim the remaining 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 note you redacted information under section 552.130 of the Government Code pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 684 (2009). Open Records Decision No. 684 authorizes the withholding of ten categories of information, including a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision. In this instance, you redacted a vehicle identification number, in addition to a Texas license plate number, from the information released to the requestor. We note the city is not authorized to withhold a vehicle identification number pursuant to Open Records Decision No. 684. However, a vehicle identification number is subject to section 552.130. Therefore, we will address the applicability of section 552.130 to this information.¹ Section 552.130 provides that information relating to a motor vehicle title or registration issued by a Texas agency is

¹The 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).

excepted from public release. Gov't Code §552.130(a)(2). Accordingly, the city must withhold the vehicle identification number under section 552.130.

You raise section 552.108 of the Government Code for Exhibit C. Section 552.108 provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Id. § 552.108(a)(1)-(2), (b)(1)-(2). Generally speaking, subsections 552.108(a)(1) and 552.108(b)(1) are mutually exclusive of subsections 552.108(a)(2) and 552.108(b)(2). Subsection 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution, while subsection 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with law enforcement and prosecution efforts in general. In contrast, subsections 552.108(a)(2) and 552.108(b)(2) protect information that relates to a concluded criminal investigation or prosecution that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply).

In this instance, you cite to subsections 552.108(a)(1) and 552.108(b)(1) and argue Exhibit C relates to a pending investigation. However, you also cite to subsections 552.108(a)(2) and 552.108(b)(2) and state Exhibit C pertains to a case that ended in a result other than a conviction or deferred adjudication. Because of these contradictory representations, we find you failed to sufficiently demonstrate the applicability of section 552.108 to Exhibit C. *See id.* Consequently, the city may not withhold Exhibit C under section 552.108.

In summary, the city must withhold the vehicle identification number under section 552.130 of the Government Code. The city must release the remaining 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, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 399292

Enc. Submitted documents

c: Requestor
(w/o enclosures)