



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-18973

Dear Ms. Sangsvang:

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# 403497 (City of Fort Worth Public Information Request No. W004021-092810).

The City of Fort Worth (the "city") received a request for certified copies of any and all records, photographs, reports, witness statements, investigation officer's notes, measurements, audio tape, video tape and police cruiser recordings, 911 audio tapes, and log notes pertaining to a specified accident.¹ You state the city has no interest regarding whether the submitted information, which includes video footage received from the Fort Worth Transit Authority (the "authority"), should be withheld. You state the city notified the authority of the request and of its right to submit comments to this office as to why the video footage should not be released. *See* Gov't Code 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments submitted by the authority. We have reviewed the submitted information and considered the comments submitted by the authority.

Initially, we note some of the submitted video footage was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-15408 (2010). In that ruling, we found the authority failed to meet the procedural requirements as laid out in section 552.301 of the Government Code. As a result, the authority had to provide

¹We note the city asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

a compelling reason to withhold the information in order to overcome the presumption the requested information was public under the Act. *See id.* § 552.302 (failure to comply with procedural requirements of section 552.301 results in legal presumption requested information is public unless there is compelling reason to withhold information). Though the authority raised section 552.103 of the Government Code, we ruled the authority had waived its claim because section 552.103 is a discretionary exception. *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (section 552.103 may be waived); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 473 (1987) (section 552.103 may be waived). For the instant request, the authority again raises section 552.103 of the Government Code. However, because the authority violated section 552.301 in regards to the same information in the previous ruling, it has waived the protection of section 552.103 and may not rely on it now. As the authority raises no further arguments against disclosure, the city must release the video footage that was the subject of Open Records Letter No. 2010-15408 to the requestor. As the city raises no arguments against disclosure for the remaining information, we will now address any confidential information which must be withheld therein.

We note the remaining submitted information contains a CR-3 accident report that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.062 (accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the city with the requisite information for the CR-3 accident report. Therefore, the city must release the CR-3 accident report to this requestor in its entirety pursuant to section 550.065(c) of the Transportation Code.

We note the remaining submitted information contains Texas motor vehicle record information. Section 552.130 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(a)(1), (2). Accordingly, the city must withhold the Texas motor vehicle record information we have indicated from the pictures and we have marked on pages 23, 25, 26, 103, and 104 of the document entitled W4021 in the remaining submitted information under section 552.130 of the Government Code.²

²We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver’s license numbers and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the city must release the CR-3 accident report to this requestor in its entirety pursuant to section 550.065(c) of the Transportation Code. The city must withhold the Texas motor vehicle record information from the pictures we have indicated and on pages 23, 25, 26, 103, and 104 of the document entitled W4021 in the remaining submitted information under section 552.130 of the Government Code. As you raise no arguments against disclosure for the remaining information, the city must release the remaining information to the requestor.³

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/vb

Ref: ID# 403497

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the remaining information contains social security numbers. Although 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 section does not apply to the social security number of a deceased individual. Gov't Code § 552.147(b). Therefore, the city may not withhold the social security number belonging to the deceased individual under section 552.147 of the Government Code.