



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 18, 2011

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2011-00813

Dear Mr. Griffith:

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# 410579.

The Town of Flower Mound (the "town"), which you represent, received a request for information pertaining to a specified incident. You claim the requested 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.

We note that section 552.022 of the Government Code is applicable to some of the submitted information. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). We have marked court documents that are subject to section 552.022(a)(17). Although you seek to withhold the court documents under section 552.108 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the marked court documents may not be withheld under section 552.108.

You claim that the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining information is related to a pending criminal case. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the remaining information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note, however, that the remaining information includes a statutory warning and a notice of suspension. Because copies of those documents are provided to the person who is the subject of the warning and the notice, we find that the release of the statutory warning and the notice of suspension will not interfere with the detection, investigation, or prosecution of crime. *See Gov’t Code* § 552.108(a)(1). Therefore, the statutory warning and the notice of suspension may not be withheld under section 552.108.

We also note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The district attorney must release basic offense and arrest information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Except for basic information, the statutory warning, and the notice of suspension, the town may withhold the remaining information under section 552.108(a)(1).

We note that portions of the Statutory Warning and Notice of Suspension are excepted from disclosure under section 552.130 of the Government Code.¹ Section 552.130 provides in relevant part:

- (a) Information is excepted from the requirement of Section 552.021 if the information relates to:

¹The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

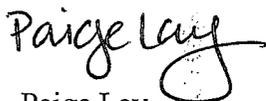
Gov't Code § 552.130(a)(1), (2). Thus, the town must withhold the Texas motor vehicle record information we have marked in the Statutory Warning and Notice of Suspension under section 552.130 of the Government Code.²

In summary, the marked court documents must be released pursuant to section 552.022(a)(17) of the Government Code. Except for the basic offense and arrest information that must be released under section 552.108(c) and the statutory warning and the notice of suspension, the town may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code. When releasing the Statutory Warning and Notice of Suspension, the town must withhold the marked Texas motor vehicle record information under section 552.130 of the Government Code.

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,



Paige Lay
Assistant Attorney General
Open Records Division

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

Ref: ID# 410579

Enc. Submitted documents

c: Requestor
(w/o enclosures)