



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 15, 2011

Ms. Angie Kelly  
City Secretary  
City of Oak Point  
100 Naylor Road  
Oak Point, Texas 75068

OR2011-02291

Dear Ms. Kelly:

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# 409158.

The City of Oak Point (the "city") received a request for information related to a specified incident. You claim that the requested information is excepted from disclosure under section 552.108(a)(2) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Section 552.108(a)(2) is applicable only if the information at issue is related to a concluded criminal case "that did not result in conviction or deferred adjudication." *Id.* § 552.108(a)(2). Although you claim section 552.108(a)(2), you inform us that the submitted information is related to a pending criminal case. Because your assertion of section 552.108(a)(2) is inconsistent with your representation that the information at issue pertains to a pending case, we find that you have

not demonstrated that the information pertains to a case that concluded in a final outcome other than a conviction or a deferred adjudication. Accordingly, the city may not withhold the submitted information under section 552.108(a)(2) of the Government Code.

We note some of the submitted information is subject to section 552.130 of the Government Code, which exempts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state.<sup>1</sup> See Gov't Code § 552.130(a)(1). The city must withhold the information we have marked under section 552.130.<sup>2</sup> The remaining submitted information must be released to the requestor.<sup>3</sup>

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception such as section 552.130 of the Government Code on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We 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 a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note the information to be released contains social security numbers. 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.

Ref: ID# 409158

Enc. Submitted documents

c: Requestor  
(w/o enclosures)