



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 18, 2011

Mr. T. Aaron Dobbs
Assistant City Attorney
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77487-0110

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GREG ABBOTT

OR2011-02512

Dear Mr. Dobbs:

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# 410281.

The City of Sugar Land (the "city") received a request for photographic red-light camera data for a specified period.¹ You claim the submitted information is excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we must address the city's responsibilities 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 information is excepted from public disclosure under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). Additionally, under

¹Although you have failed to submit a copy of the request along with your brief, we take our description of the request from the materials you submitted to our office in conjunction with a complaint assigned ID# 403241.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

section 552.301(e), a governmental body receiving a request for information that it wishes to withhold must submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). The city received the request for information on September 7, 2010. You state the city sought and received clarification of the request on September 15, 2010.³ Accordingly, the ten business day deadline began on September 16, 2010. Thus, the city was required to request a decision from this office by September 29, 2010, and to submit the information required by section 552.301(e) by October 6, 2010. The city sought a ruling from this office on December 9, 2010, however, as of the date of this letter, the city has not provided a copy of the written request for information. Thus, we find the city has failed to comply with the requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released, unless a governmental body overcomes this presumption by demonstrating a compelling reason to withhold the information. *See Gov't Code* § 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 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is made confidential. Open Records Decision No. 150 (1977). As section 552.130 of the Government Code can provide a compelling reason for non-disclosure, we will consider its applicability to the information at issue.

Section 552.130 excepts from disclosure information related 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. *See Gov't Code* § 552.130(a)(1), (2). You state the city contracts with American Traffic Solutions ("ATS") to operate the red-light cameras. You contend that while the city may obtain the video captured by the cameras from ATS, the video contains visible license plate numbers. You inform us the city does not have the technology to redact this information from the video recordings and therefore seeks to

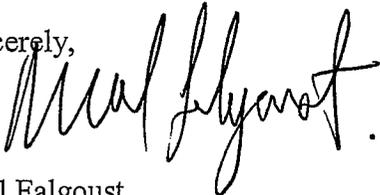
³*See Gov't Code* § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

withhold the information in full. However, we note that you have submitted to this office printed copies of photographs taken from those videos for our review. Upon review, we find the city is able to redact the Texas motor vehicle record information from the images at issue in the printed copies. Accordingly, the city must withhold the Texas license plate numbers we have marked under section 552.130 of the Government Code.⁴ The remaining information contained in the printed documents must be released.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 410281

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note this office has issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including the portion of a photograph that reveals a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.