



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2011

Ms. Judith N. Benton
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2011-05029

Dear Ms. Benton:

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# 417521 (City of Waco Reference# LGL-11-282).

The City of Waco (the "city") received a request for information relating to a specified automobile accident report involving the requestor. You indicate you have released some information. You claim that portions of the submitted information are excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the city's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b), the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See Gov't Code § 552.301(b)*. In this instance, the city received the request for information on February 22, 2011. You did not, however, request a ruling from this office until March 9, 2011. Thus, we find the city failed to comply with the requirements of section 552.301.

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. Information that is presumed public must be released unless

a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 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); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because sections 552.130 and 552.136 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the city's arguments under these exceptions.

Section 552.130 of the Government Code 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. Accordingly, the city must withhold the Texas motor vehicle record information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. We agree the insurance policy number you have marked is an access device number for the purposes of section 552.136. Thus, the city must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the city must withhold the Texas motor vehicle record information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code and the insurance policy number you have marked under section 552.136 of the Government Code.¹ The remaining information 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)

¹ We note Open Records Decision No. 684 (2009) was issued by this office as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number and a Texas license plate number under section 552.130 of the Government Code, and insurance policy numbers under section 552.136 of the Government Code without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script that reads "Kirsten Brew".

Kirsten Brew
Assistant Attorney General
Open Records Division

KB/sdk

Ref: ID# 417521

Enc. Submitted documents

c: Requestor
(w/o enclosures)