



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2011

Ms. Michele Tapia
Assistant District Attorney
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2011-09143

Dear Ms. Tapia:

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# 422372.

The Dallas County District Attorney's Office (the "district attorney") received a request for information pertaining to a named individual and a specified company during a specified time period. You state you will release a portion of the requested information. You claim the submitted information is excepted from disclosure under sections 552.107 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we must address the district attorney's obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(b), within ten business days after receiving the request the governmental body must request a ruling from this office and state the exceptions to disclosure that apply. *See Gov't Code § 552.301(b)*. In this instance, you state the district attorney received the request for information on April 7, 2011. However, you did not request this ruling until

¹We 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 that submitted to this office.

April 27, 2011. Consequently, we find the district attorney failed to comply with section 552.301(b) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *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, 381-82 (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); *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). Although you raise section 552.107 of the Government Code, this is a discretionary exception that protects only a governmental body's interests and may be waived. *See* Open Records Decision Nos. 676 at 12 (2002) (claim of attorney-client privilege under section 552.107 does not provide compelling reason to withhold information under section 552.302 if it does not implicate third-party rights), 665 at 2 n.5 (2000) (discretionary exceptions in general). As such, this exception does not constitute a compelling reason to withhold information for purposes of section 552.302. Thus, the district attorney may not withhold any of the requested information under section 552.107 of the Government Code. We note section 552.130 of the Government Code provides a compelling reason for non-disclosure. Accordingly, we will address your argument under this exception.

Section 552.130 provides in relevant part:

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

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
[or]

(2) a motor vehicle title or registration issued by an agency of this state or another state or country[.]

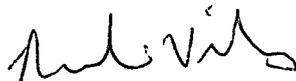
Act of May 30, 1997, 75th Leg., R.S., ch. 1187, § 4, 1997 Tex. Gen. Laws 4575, 4580 amended by Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)). Upon review, we find the submitted information contains motor vehicle record information. Therefore, the district attorney must withhold

the information we have marked under section 552.130.² As you raise no additional arguments against disclosure of the remaining information, it 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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/dls

Ref: ID# 422372

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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