



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 27, 2011

Ms. Lisa D. Mares  
Taylor Olson Adkins Sralla Elam, LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2011-09148

Dear Ms. Mares:

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# 426381.

The City of Southlake (the "city"), which you represent, received a request for incident report number 11SP019870. You state the city will redact Texas driver's license and license plate numbers under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You also state the city will redact social security numbers under section 552.147(b) of the Government Code.<sup>2</sup> You claim the remaining submitted 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 must address the city's obligations under section 552.301 of the Government Code. Section 552.301 prescribes procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Section 552.301(b) requires that a governmental body ask for a decision from this office and state which exceptions apply to the requested information by the tenth business day after receiving the request. Gov't Code § 552.301(b). You state the city received the request for

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<sup>1</sup>This office issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup>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. See Gov't Code § 552.147.

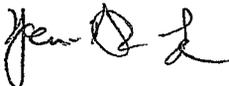
information on May 16, 2011. However, the city did not request a ruling from this office until June 2, 2011. Consequently, the city failed to comply with section 552.301 in requesting a ruling from this office.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of 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 claim an exception to disclosure under section 552.108 of the Government Code, that section is a discretionary exception that protects a governmental body's interests and which may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). In failing to comply with section 552.301, the city has waived its claim under section 552.108. Therefore, the city may not withhold any of the remaining submitted information under section 552.108. As no further exceptions to disclosure have been raised, the city must release the information at issue.

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/ACV/bs

Ref: ID# 426381

Enc. Submitted documents

c: Requestor  
(w/o enclosures)