



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2012

Ms. Molly Shortall
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2012-02844

Dear Ms. Shortall:

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# 446418.

The City of Arlington (the “city”) received a request for all files regarding the requestor’s background and background investigation, any remarks made by former employers, and all reasons why the requestor “was not allowed to go further in the process.” You state you have released most of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note, and you acknowledge, that the city did not comply with its deadlines under section 552.301 of the Government Code in requesting this decision. *See* Gov’t Code § 552.301(a)-(b), (e). Pursuant to section 552.302 of the Government Code, the submitted information is therefore presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because your claim under section 552.101 of the Government Code can provide compelling reasons for non-disclosure, we will address your argument under this exception.

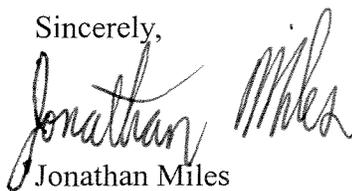
Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information other statutes make confidential. Section 730.004 of the Transportation Code provides that “an agency may not disclose personal information about any person obtained by the agency in connection with a motor

vehicle record.” Transp. Code § 730.004. “Personal information” includes a person’s name, address, and driver identification number, but not the zip code. *Id.* § 730.003(6). The Department of Public Safety (the “DPS”) is an “agency” for purposes of chapter 730. *See id.* § 730.003(1) (“agency” is state agency that compiles or maintains motor vehicle records). We understand the submitted information was obtained by the city from the DPS for use by the city in carrying out its governmental functions. *See id.* § 730.007(a)(2)(A)(I) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Accordingly, we find that the name, address, and driver identification number of the individual obtained from the DPS must be withheld. Accordingly, we have marked the information that must be withheld from disclosure under sections 730.004 and 730.013 of the Transportation Code in conjunction with section 552.101 of the Government Code. We note that the remaining information does not consist of “personal information” for the purposes of chapter 730 and, thus, it may not be withheld under section 552.101 based on sections 730.004 and 730.013. As you raise no further exceptions, the remaining information must be released.¹

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/dls

¹We note that this requestor has a special right of access under section 552.023 of the Government Code to some of the information being released. *See* Gov’t Code § 552.023(a). Therefore, if the city receives another request for this information from a person who does not have a special right of access, the city should resubmit this same information and request another decision from this office. *See id.* §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

Ref: ID# 446418

Enc. Submitted documents

c: Requestor
(w/o enclosures)