



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2012

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2012-07470

Dear Ms. Graham:

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# 454121.

The City of Mesquite Police Department (the "department") received a request for photographs from a specified accident. You state you will redact motor vehicle information subject to section 552.130 of the Government Code in accordance with Open Records Decision No. 684 (2009).¹ You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 protected by other statutes, such as section 143.090 of the Local Government Code. You state the City of Mesquite is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides as follows:

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number under section 552.130 of the Government Code.

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You state the submitted information includes photographs of police officers. You do not indicate the police officers depicted in the submitted photographs have provided the department with written consent regarding the release of the photographs. You do not inform us, and it does not appear, that any of the exceptions to withholding a photograph under section 143.090 are applicable. Therefore, to the extent the photographs depict police officers, the department must withhold the photographs we have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. However, the department may not withhold any of the remaining photographs that do not depict police officers under section 552.101 in conjunction with section 143.090 of the Local Government Code.

You seek to withhold motor vehicle information under section 552.130 of the Government Code and in accordance with Open Records Decision No. 684 (2009). Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. As previously noted, Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold certain information, including a Texas license plate number under section 552.130 of the Government Code, without requesting a decision. However, we note, section 552.130 protects personal privacy and the requestor in this instance is a representative of the company that insured the vehicle at issue. As such, this requestor, as the authorized representative of the insured in this matter, has a right of access to the insured's motor vehicle record information. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). We also note the submitted photographs include vehicle identification numbers and an out-of-state license plate. Therefore, the department must withhold the license plates

and vehicle identification numbers related to vehicles other than the requestor's insured in the photographs we have indicated under section 552.130 of the Government Code.

In summary, to the extent the photographs depict police officers, the department must withhold the photographs we have indicated under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must withhold the license plates and vehicle identification numbers related to vehicles other than the requestor's insured in the photographs we have indicated under section 552.130 of the Government Code. The remaining information must be released.²

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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/dls

Ref: ID# 454121

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the photographs to be released contain information to which the requestor has a right of access. *See* Gov't Code § 552.023. Because such information may be confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.