



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2012

Ms. Lysia H. Bowling
City Attorney
City of San Angelo
P.O. Box 1751
San Angelo, Texas 76902

OR2012-07966

Dear Ms. Bowling:

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# 454677.

The San Angelo Police Department (the “department”) received a request for a report pertaining to a specified incident. You claim the 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.

Initially, you acknowledge, and we agree, the department failed to meet the statutory deadlines imposed by section 552.301 of the Government Code. *See* Gov’t Code § 552.301(b), (e). 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 requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (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); *see also* Open Records Decision No. 319 (1982). Generally, a compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 177 (1977). Although you raise section 552.108 of the Government Code as an exception to disclosure of the requested information, this exception is discretionary in nature. It serves only to protect a governmental body’s interests and may be waived; as such, it does not constitute a compelling reason to withhold information for purposes of section 552.302. *See* Open Records Decisions Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 177 (statutory predecessor to section 552.108 discretionary). Accordingly, the department may not withhold the submitted information under section 552.108. However, we note some of the submitted information is subject to

section 552.130 of the Government Code.¹ Because section 552.130 can provide a compelling reason to withhold information, we will address the applicability of this section to the submitted information.

Section 552.130(a)(2) of the Government Code excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Upon review, we find the department must withhold the license plate numbers we have marked under section 552.130 of the Government Code. The department must release the remaining information.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,



Sean Nottingham
Assistant Attorney General
Open Records Division

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¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the information being released includes the requestor's Texas license plate number, to which the requestor has a right of access under section 552.023 of the Government Code. See Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the department receives another request for this information from an individual other than this requestor, the department is authorized to withhold the requestor's license plate number without the necessity of requesting an attorney general opinion.

Ref: ID# 454677

Enc. Submitted documents

c: Requestor
(w/o enclosures)