



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2012

Ms. Karyna Soldatova
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2012-10906

Dear Ms. Soldatova:

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# 459838.

The College Station Police Department (the "department") received a request for video associated with three specified citations. 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.

We must first address the department's obligations under section 552.301 of the Government Code, which prescribes the procedural obligations 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. *See* Gov't Code § 552.301(b). You state, and the submitted request for information reflects, the department received the instant request on April 30, 2012; therefore, the ten-business-day deadline was May 14, 2012. Your letter requesting a decision from this office was submitted to this office in an envelope postmarked May 15, 2012. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, the department failed to request a decision from this office within the ten-business-day period prescribed by subsection 552.301(b).

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 that the information is public and must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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); 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. *See* Open Records Decision No. 150 at 2 (1977). We note section 552.108 of the Government Code is discretionary in nature. This exception 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 Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, no portion of the submitted information may be withheld under section 552.108. We note portions of the information are 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 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. We note section 552.130 protects personal privacy. In this instance, the requestor is one of the individuals whose information is at issue. Thus, the requestor has a right of access to her motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, the department must withhold any discernible license plates in the submitted video recording under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released.

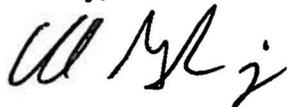
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

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

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,



Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/tch

Ref: ID# 459838

Enc. Submitted documents

c: Requestor
(w/o enclosures)