



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2012

Ms. Ashley D. Dierker
Counsel for the City of Joshua
Taylor, Olson, Adkins, Sralla & Elam
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2012-10967

Dear Ms. Dierker:

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# 463570.

The City of Joshua (the "city"), which you represent, received a request for a specified arrest report. You state the city will redact some information pursuant to the previous determination issued in Open Records Decision No. 684 (2009) and sections 552.130 and 552.136 of the Government Code.¹ You claim portions of the submitted information are

¹Open Records Decision No. 684 is a previous determination issued by this office authorizing all governmental bodies to withhold certain categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, information described in subsections 552.130(a)(1) and (a)(3). *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). Section 552.136(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision, access device numbers subject to section 552.136(b). *See id.* § 552.136(c); *see also id.* § 552.136(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.136(c) to attorney general, and governmental body withholding information pursuant to section 552.136(c) must provide notice to requestor).

excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

As you acknowledge, the city failed to comply with the procedural obligations under the Act. See Gov't Code § 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 the information is public and must be released. Information presumed public 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 (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); Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Section 552.130 of the Government Code makes information confidential and provides a compelling reason for non-disclosure. Accordingly, we will consider your assertion of this exception.

Section 552.130(a)(2) of the Government Code excepts from disclosure information related 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 agree the city must withhold the motor vehicle identification number you have marked under section 552.130 of the Government Code. The city must release the remaining 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, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/som

Ref: ID# 463570

Enc. Submitted documents

c: Requestor
(w/o enclosures)