



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2012

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-13696

Dear Ms. Evans:

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# 463563 (GC No. 19759).

The City of Houston (the "city") received a request for a listing of all vehicles owned, operated by, maintained by, or registered to the city. You claim the submitted information is excepted from disclosure under sections 552.130 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

As you acknowledge, the city failed to meet the statutory deadlines imposed by section 552.301(e) of the Government Code. *See* Gov't Code § 552.301(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). Because sections 552.130 and 552.152 of the Government Code can

provide compelling reasons to withhold information, we will address the applicability of these sections to the submitted information.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You state that a portion of the submitted information pertains to vehicles used in undercover operations and release of this information would subject those officers involved in the operations to a substantial threat of physical harm. Based on your representations and our review, we conclude the city must the information you have marked under section 552.152 of the Government Code.¹

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. *Id.* § 552.130(a)(1)-(2). Accordingly, the city must withhold the license plate numbers and vehicle identification numbers, representative samples of which we have marked, in the remaining information under section 552.130 of the Government Code. However, we find that none of the remaining information consists of motor vehicle record information subject to section 552.130. Therefore, the city may not withhold any portion of the remaining information under section 552.130 of the Government Code.

In summary, the city must withhold the information you have marked under section 552.152 of the Government Code. The city must withhold the license plate numbers and vehicle identification numbers, representative samples of which we have marked, in the remaining information under section 552.130 of the Government Code. The city must release the remaining information.

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

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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

SN/bhf

Ref: ID# 463563

Enc. Submitted documents

c: Requestor
(w/o enclosures)