



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 18, 2012

Ms. Elizabeth S. Horn  
Assistant City Attorney  
City of Carrollton  
1945 East Jackson Road  
Carrollton, Texas 75006

OR2012-14799

Dear Ms. Horn:

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# 465415.

The City of Carrollton (the "city") received a request for a specified report and 911 call. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the city's responsibilities under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). In one portion of your brief to our office, you state the request was received on June 26, 2012. In a different portion of the same brief, you state the city received the request on June 27, 2012. However, the facsimile transmission date on the submitted request confirms the city received the request on June 26, 2012. You inform us the city was closed on July 4, 2012. This office does not count holidays as business days for the purpose of calculating a governmental body's deadlines under the Act. Thus, the city was required to request a decision from this office by July 11, 2012. However, the envelope in which you submitted your request for a decision

bears a postmark date of July 12, 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, we find the city failed to comply with the requirements of section 552.301.

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 the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (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. 319 (1982). 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). You seek to withhold a portion of the submitted information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, the purpose of the common-law informer's privilege is to protect the flow of information to a governmental body, rather than to protect a third person. Thus, the informer's privilege, unlike other claims under section 552.101, may be waived. *See* Open Records Decision No. 549 at 6 (1990). Furthermore, section 552.108 of the Government Code is a discretionary exception to disclosure that also protects a governmental body's interest and may be waived. *See* Open Records Decision No. 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, in failing to comply with section 552.301, the city has waived its claims under the common-law informer's privilege and section 552.108. Accordingly, the city may not withhold any of the requested information under either ground. However, because section 552.130 of the Government Code can provide a compelling reason to withhold information, we will consider the applicability of this exception to the submitted information.

Section 552.130 of the Government Code excepts from disclosure information relating 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). We agree the city must withhold the motor vehicle information you have highlighted 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 responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](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,

A handwritten signature in black ink, appearing to read "Jeffrey W. Giles". The signature is fluid and cursive, with the first name being the most prominent.

Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/eb

Ref: ID# 465415

Enc. Submitted documents

c: Requestor  
(w/o enclosures)