



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2012

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2012-15022

Dear Ms. Graham:

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# 465542.

The Mesquite Police Department (the "department") received three requests from different requestors for information pertaining to a specified automobile accident. You state the department is releasing some of the requested information. You state the department will redact some information pursuant to Open Records Letter Nos. 2012-06459 (2012), 2011-15761 (2011), and 2011-15075 (2011).¹ You also state the department will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code.²

¹Open Records Letter No. 2012-06459 is a previous determination authorizing the department to withhold motor vehicle price information in calls sheets under section 552.101 of the Government Code in conjunction with common-law privacy, without requesting a decision from this office. Open Records Letter Nos. 2011-15761 and 2011-15075 are previous determinations to the department authorizing the department to withhold the originating addresses and telephone numbers, respectively, of 9-1-1 callers furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.118 of the Health and Safety Code without requesting a decision from this office.

²The Texas legislature amended section 552.130 of the Government Code effective September 1, 2011, to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).

You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state the department will redact the portions of the requested information relating to lien information pursuant to Open Records Letter No. 2012-01375 (2012). In Open Records Letter No. 2012-01375, this office issued a previous determination to the department authorizing the department to withhold lien information under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. See Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Therefore, the department must withhold the lien information you have marked, as well as the additional lien information we have marked, in accordance with the previous determination issued to the department in Open Records Letter No. 2012-01375.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 143.090 of the Local Government Code. You state the City of Mesquite is a civil service city under chapter 143 of the Local Government Code. Section 143.090 of the Local Government Code, provides:

A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:

- (1) the officer has been charged with an offense by indictment or by information;
- (2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;
- (3) the photograph is introduced as evidence in a judicial proceeding;
or
- (4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You state some of the submitted information consists of photographs of police officers. You do not indicate the police officers depicted in the submitted photographs have provided the department with written consent regarding the release of the photographs. You do not inform us, and it does not appear, that any of the exceptions to withholding a photograph under section 143.090 are applicable. Therefore, the department must withhold the photographs depicting police officers under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code.

You also state the department will redact Texas license plate numbers from the requested information pursuant to Open Records Decision No. 684 (2009).³ Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. *See Gov't Code § 552.130(a)(2)*. The department must generally withhold the motor vehicle record information you and we have marked in the submitted documents under section 552.130 of the Government Code. The department must also generally withhold the portions of the remaining photographs depicting a discernable license plate number, vehicle identification number, or registration sticker under section 552.130 of the Government Code. We note, however, the purpose of section 552.130 is to protect the privacy interests of individuals. In this instance, the third requestor appears to be the insurance provider for the surviving owner of the vehicle the deceased individual was driving at the time of the accident. If the third requestor is acting as the surviving owner's authorized representative, then he has a right of access to his client's motor vehicle record information, and it may not be withheld from him under section 552.130. *See Gov't Code § 552.023(a)*; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual).

In summary, the department must withhold the lien information you have marked, as well as the additional lien information we have marked, in accordance with the previous determination issued to the department in Open Records Letter No. 2012-01375. The department must withhold the photographs depicting police officers under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. The department must generally withhold the motor vehicle record information you and we have marked in the submitted documents under section 552.130 of the Government Code. The department must also generally withhold the portions of the remaining photographs depicting a discernable license plate number, vehicle identification number, or registration sticker under section 552.130 of the Government Code. However, if the third requestor is acting as the surviving owner's authorized representative, then he has a right of access to his client's motor vehicle record information, and his client's information may not be withheld from him under section 552.130. The department must release the remaining information.

You ask this office to issue a previous determination that would permit the department to withhold information pertaining to a motor vehicle registration under section 552.130(a)(2) of the Government Code without the necessity of requesting a decision from this office. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular information at issue in these requests 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.

³Open Records Decision No. 684 permits a governmental body to redact Texas license plate numbers, which are made confidential by section 552.130(a)(2), without requesting an attorney general decision.

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

SN/bhf

Ref: ID# 465542

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)