



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2012

Mr. James G. Nolan
Open Records Attorney
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2012-19736

Dear Mr. Nolan:

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# 473128 (CPA ORTS No. 8602416758).

The Comptroller of Public Accounts (the "comptroller") received a request for vehicle transaction and sales tax records for all vehicles sold during a specified time period. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. You state you have notified the Texas Department of Motor Vehicles (the "DMV"), which may have an interest in the requested information, pursuant to section 552.304 of the Government Code. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You assert the requested information should be withheld in its entirety under section 552.130 of the Government Code, which provides information relating to a motor vehicle title or

¹We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

registration issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a)(2). Upon review, we find the comptroller must withhold the information we have marked under section 552.130 of the Government Code.² However, we find you have failed to demonstrate the applicability of section 552.130 to any of the remaining information. Thus, the comptroller may not withhold any of the remaining information under section 552.130 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information other statutes make confidential. Section 730.004 of the Transportation Code provides that “an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.” Transp. Code § 730.004. “Personal information” includes a person’s name, address, and driver identification number, but not the zip code. *Id.* § 730.003(6), .003(5) (“person” is an individual, organization, or entity but does not include this state or an agency of this state). The DMV is an “agency” for purposes of chapter 730. *See id.* § 730.003(1) (“agency” is state agency that compiles or maintains motor vehicle records). You state the submitted information was obtained by the comptroller from the DMV for use by the comptroller in carrying out its governmental functions. *See id.* § 730.007(a)(2)(A)(I) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not re-disclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Accordingly, we find the names and addresses of the individuals obtained from the DMV must be withheld. Thus, we have marked the information that must be withheld from disclosure under sections 730.004 and 730.013 of the Transportation Code in conjunction with section 552.101 of the Government Code. We note the remaining information does not consist of “personal information” for the purposes of chapter 730 and, therefore, it may not be withheld under section 552.101 based on sections 730.004 and 730.013.

You also raise section 2721 of title 18 of the United States Code for portions of the remaining information. Section 2721 is also encompassed by section 552.101 of the Government Code and provides, in relevant part:

(a) In general.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9)[.]

(b) Permissible uses.—Personal information referred to in subsection (a) . . . subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency . . . in carrying out its functions[.]

(c) Resale or redisclosure.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)) Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

18 U.S.C. § 2721(a)-(c). For purposes of section 2721, section 2725 of title 18 of the United States Code defines “motor vehicle record” and “personal information” as follows:

(1) “[M]otor vehicle record” means any record that pertains to a motor vehicle operator’s permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

...

(3) “[P]ersonal information” means information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.

Id. § 2725(1), (3). Upon review, we find no portion of the remaining information consists of personal information for the purposes of section 2721. Thus, the remaining information

may not be withheld under section 552.101 of the Government Code in conjunction with section 2721 of title 18 of the United States Code.

In summary, the comptroller must withhold the information we have marked under (1) section 552.130 of the Government Code and (2) section 552.101 of the Government Code in conjunction with sections 730.004 and 730.013 of the Transportation Code. 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 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 473128

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Jennifer Soldano
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731
(w/o enclosures)