



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 8, 2013

Mr. Thomas Bailey
Legal Services
VIA Metropolitan Transit
P.O. Box 12489
San Antonio, Texas 78212-0489

Ms. Bonnie Prosser Elder
General Counsel
VIA Metropolitan Transit
P.O. Box 12489
San Antonio, Texas 78212-0489

OR2013-03975

Dear Mr. Bailey and Ms. Elder:

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# 479914.

VIA Metropolitan Transit ("VIA") received a request for photographs and a video recording pertaining to a specified accident. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note VIA has redacted license plate numbers and motor vehicle registration information from the submitted photographs. Open Records Decision No. 684 (2009) is a previous determination authorizing all governmental bodies to withhold certain categories of information, including Texas license plate numbers under section 552.130(a)(2) of the Government Code without the necessity of requesting an attorney general decision. *See* ORD 684. However, neither section 552.130(c) nor Open Records Decision No. 684

authorize the department to redact the registration information you redacted without requesting a ruling from this office. You do not assert, nor does our review of our records indicate, that VIA is authorized to withhold the redacted registration information without first seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). Because we can discern the nature of the redacted information, being deprived of the information does not inhibit our ability to make a ruling. However, in the future, VIA must not redact information from the documents it submits to this office in seeking an open records ruling, unless VIA is authorized to do so by statute or the information is the subject of a previous determination under section 552.301 of the Government Code. *See Gov't Code* § 552.301(e)(1)(D). Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.* § 552.302.

We next note the submitted information is subject to section 552.022 of the Government Code, which provides in pertinent part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). You inform this office the submitted information is part of a completed accident report and completed investigation. Therefore, we find the submitted information is subject to section 552.022(a)(1). Although you raise section 552.103 of the Government Code for this information, section 552.103 is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 (1999) (governmental body may waive section 552.103). As such, section 552.103 does not make information confidential for the purposes of section 552.022. Therefore, VIA may not withhold the submitted information under section 552.103. We note, however, the submitted records contain motor vehicle record information subject to section 552.130 of the Government Code.¹ As this exception can make information confidential for purposes of section 552.022, we will address its applicability.

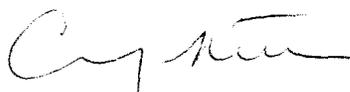
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). Therefore, VIA must withhold the information we have marked in the submitted photographs under section 552.130 of the Government Code. VIA also must withhold any discernible license plate numbers in the submitted video recording under section 552.130. VIA must release the remaining information to the requestor.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 479914

Enc. Submitted documents

c: Requestor
(w/o enclosures)