



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 4, 2013

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2013-05350

Dear Ms. Quinn:

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# 487673 (City Reference Number 13-413).

The City of Cedar Park (the "city") received a request for reports pertaining to the requestor's previous address from a specified period of time. You state the city has no information responsive to a portion of the request.¹ You also state the city will release some of the requested information to the requestor. You inform us the city will withhold social security numbers pursuant to section 552.147(b) of the Government Code.² You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us some of the responsive information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2013-04048 (2013). In that ruling, we made the following determination: With the exception of basic information, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code and Exhibit D under section 552.108(a)(2) of the Government Code. The city must withhold the marked motor vehicle record information in Exhibit B under section 552.130

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision. *Id.* § 552.147(b).

of the Government Code. The city must release the remaining information. You state there has been no change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the city may continue to rely on Open Records Letter No. 2013-04048 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information was not at issue in the prior ruling, we will consider your arguments against disclosure.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state the information submitted as Exhibits C and D relates to pending criminal investigations. Based on your representation and our review, we agree the release of Exhibits C and D would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note, however, section 552.108 does not except from disclosure basic information about a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186-87. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold Exhibits C and D under section 552.108(a)(1) of the Government Code.

You state the city will withhold the driver’s license numbers you have marked under section 552.130(c) of the Government Code and the Texas license plate numbers you have marked pursuant to Open Records Decision No. 684 (2009).³ Section 552.130 provides

³Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). Gov’t Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body’s decision to withhold information under section 552.130(c) to attorney general and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including a Texas license plate number under section 552.130 of the Government Code. ORD 684.

information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). We conclude the city must withhold the motor vehicle record information you have marked, as well as the additional information we have marked, in Exhibit B under section 552.130.

In summary, with the exception of basic information, the city may withhold Exhibits C and D under section 552.108(a)(1) of the Government Code. The city must withhold the motor vehicle record information you have marked, as well as the additional information we have marked, in Exhibit B under section 552.130 of the Government Code. The city must release the remaining information.⁴

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# 487673

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴We note the requestor has a special right of access to some of the information being released. See Gov't Code § 552.023. If the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.