



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 12, 2013

Mr. Charles H. Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2013-19648

Dear Mr. Weir:

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# 505521 (COSA File No. W017933).

The City of San Antonio (the "city") received a request for information pertaining to a specified incident report. The city claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

The submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-13612 (2012). In Open Records Letter No. 2012-13612, we determined the following: the city's police department (1) must release a CR-3 accident report pursuant to section 550.065(c)(4) of the Transportation Code; (2) must withhold some information under section 552.101 of the Government Code in conjunction with federal law, chapter 411 of the Government Code, and common-law privacy; (3) must withhold motor vehicle record information under section 552.130 of the Government Code; and (4) must release the remaining information. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983)

(governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Thus, pursuant to section 552.007, the city may not now withhold the information that was previously released, unless its release is expressly prohibited by law or the information is confidential by law. Section 552.108 of the Government Code is a discretionary exception to disclosure that protects a governmental body's interests. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 neither prohibits public disclosure of information nor makes information confidential under law. Therefore, the city may not withhold any portion of the submitted information under section 552.108.

However, the requestor in Open Records Letter No. 2012-13612 had a right of access to the motor vehicle record information of that requestor's insured (the "insured") pursuant to section 552.023 of the Government Code. The current requestor does not have a right of access to the insured's motor vehicle record information. The submitted information also contains the social security number of the current requestor's client, to which the current requestor has a right of access pursuant to section 552.023. Accordingly, we find the circumstances have changed with respect to the insured's motor vehicle record information and the social security number of the requestor's client. Therefore, the city may not rely on Open Records Letter No. 2012-13612 as a previous determination in regard to that information. As noted above, the requestor has a right of access to his client's social security number and the department must release it to him pursuant to section 552.023 of the Government Code. However, we must address whether the insured's motor vehicle record information is excepted from release under the Act. *See* Open Records Decision No. 673 at 7-8 (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). Nevertheless, we have no indication the law, facts, and circumstances on which the prior ruling was based have changed with regard to the remaining information. Thus, the city must continue to rely on Open Records Letter No. 2012-13612 as a previous determination and withhold or release the remaining information in accordance with that ruling. *Id.*

Section 552.130(a) of the Government Code provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

(2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Gov't Code § 552.130(a). The city must withhold the submitted motor vehicle record information pertaining to the insured, which we marked, under section 552.130 of the Government Code.<sup>1</sup>

To conclude, the city must release the social security number of the requestor's client pursuant to section 552.023 of the Government Code. The city must withhold the information we have marked under section 552.130 of the Government Code. The city must withhold or release the remaining information in accordance with Open Records Letter No. 2012-13612.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

  
James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tch

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<sup>1</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) 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).

Ref: ID# 505521

Enc. Submitted documents

c: Requestor  
(w/o enclosures)