



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2013

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

OR2013-19871

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# 506314 (CP Ref. No. 13-970).

The City of Cedar Park (the "city") received a request for information regarding a specified case. You inform us you have released some of the submitted information to the requestor. You also inform us you will redact certain information you have marked in accordance with section 552.147(b) of the Government Code.¹ You claim the remaining information is excepted from disclosure under sections 552.108, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and have submitted documentation from the city's police department affirming, the

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

information in Exhibit C pertains to an open and pending criminal investigation by the city's police department. Based upon this representation, we conclude section 552.108(a)(1) is applicable, and the release of the information in Exhibit C 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 that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.²

You inform us you will redact the motor vehicle record information you have marked under section 552.130(c) of the Government Code.³ Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the city must generally withhold the motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. However, we note the requestor may have an ownership interest in one of the motor vehicles we have marked. Because section 552.130 protects personal privacy, the requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a) ("A person . . . has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, if the requestor has an ownership interest in one of the motor vehicles we have marked, then the city may not withhold the marked information pertaining to that motor vehicle from this requestor under section 552.130. Conversely, if the requestor does not have an ownership interest in any of the motor vehicles we have marked, then the city must withhold the all the information we have marked under section 552.130.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c). *See* Gov't Code § 552.137(a)-(c). The city must withhold the e-mail address you have marked in Exhibit B

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

³Section 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).

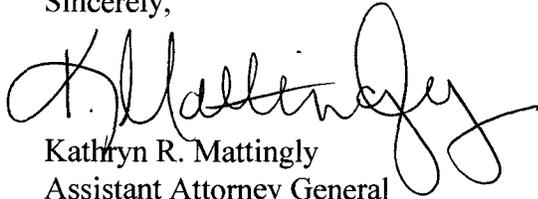
under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.⁴

In summary, the city may withhold the information Exhibit C under section 552.108(a)(1) of the Government Code. The city must generally withhold the motor vehicle record information you have marked, and the additional motor vehicle record information we have marked, under section 552.130 of the Government Code; however, if the requestor has an ownership interest in one of the motor vehicles we have marked, the city may not withhold the marked information pertaining to that motor vehicle on that basis. The city must withhold the information you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its public disclosure. The city must release the remaining information to the requestor.⁵

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, 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

⁴We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public, under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

⁵We note the remaining information contains additional motor vehicle and driver's license information to which the requestor has a right of access. *See* Gov't Code §§ 552.023, .130. However, as previously noted, the city may redact this information under section 552.130(c) of the Government Code if the city receives another request for the same information from a different requestor. *See id.* § 552.130(c). If the city redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

Ref: ID# 506314

Enc. Submitted documents

c: Requestor
(w/o enclosures)