



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2013

Mr. Marc J. Schnall
Counsel for the City of Selma
Langley & Banack, Inc.
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2013-20222

Dear Mr. Schnall:

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# 506175.

The City of Selma (the "city"), which you represent, received three requests from different requestors for information pertaining to case number 13-0465, file number 13-04706.¹ You claim portions of the submitted information are excepted from disclosure under sections 552.108, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the third requestor has excluded from his request motor vehicle record information and social security numbers. Thus, these types of information are not responsive to his request. This ruling does not address the public availability of any information that is not responsive to the request, and the city need not release any such information to this requestor. Accordingly, we do not address your arguments under section 552.130 and 552.147 for this information with respect to the third requestor.

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

¹We will use "first requestor" to refer to the requestor whose request was received by the city on September 5, 2013; "second requestor" to refer to the requestor whose request was received by the city on September 9, 2013; and "third requestor" to refer to the requestor whose request was received by the city on September 17, 2013.

with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). 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 the submitted information relates to a pending criminal case. Based on your representation and our review, we conclude the release of the information you have marked under section 552.108 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). Thus, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code.²

The city seeks to withhold certain motor vehicle record information, which you have marked, with respect to the first and second requestors. 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 personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov’t Code* § 552.130(a). You acknowledge, and we agree, the second requestor has a right of access to his motor vehicle record information pursuant to section 552.023 of the Government Code and that information may not be withheld from him under section 552.130. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we agree most of the information responsive to the first and second requests that you have marked is subject to section 552.130. We also find the additional information we have marked is subject to section 552.130. However, we note that you have marked the “vehicle year” for one of the listed vehicles. That information, which we have marked for release, is not subject to section 552.130. Accordingly, with exception of the information we have marked for release, the city must withhold the motor vehicle record information you have marked, and the additional information we have marked, with respect to the first and second requestors.³

Section 552.147 of the Government Code provides, “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147. You have marked social security numbers in the remaining responsive information. You acknowledge, and we agree, the second requestor has a right of access to his own social

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

³We 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).

security number and it may not be withheld from him under section 552.147. *See id.* § 552.023(b); ORD 481. Accordingly, the city may withhold the social security numbers you have marked under section 552.147 with respect to the first and second requestors.⁴

In summary, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code. With respect to the first and second requestor, the city must withhold the motor vehicle record we have marked and you have marked, with the exception of the information we have marked for released, under section 552.130 of the Government Code, and may withhold the social security numbers you have marked under section 552.147 of the Government Code. The remaining responsive information must be released to the respective requestors.

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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 506175

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)

⁴We note section 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. *See Gov't Code* § 552.147(b).