



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2014

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

OR2014-09785

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# 525499 (Cedar Park Ref. No. 14-450).

The City of Cedar Park (the "city") received a request for a specified case number. You state the city will make some of the information available to the requestor. You also state the city will redact certain marked information pursuant to section 552.147 of the Government Code.¹ You claim some of 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.

Section 552.108(a)(2) 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: . . . (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred

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).

adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue pertains to a closed criminal investigation that concluded in a result other than conviction or deferred adjudication. However, you have also provided this office with documentation from the city's police department stating the case at issue is "[p]ending/[i]nactive pending further information or investigation." Based on these conflicting representations, we find the city has failed to demonstrate the applicability of section 552.108(a)(2) to the information at issue. Therefore, the city may not withhold the information at issue under section 552.108(a)(2) of the Government Code.

You state the city will withhold the information you have marked pursuant to section 552.130(c) of the Government Code.² However, we note portions of the remaining information are subject to section 552.130 of the Government Code; thus, we will address the applicability of this exception to the information at issue. Section 552.130 provides 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. *Id.* § 552.130(a). We note, however, the requestor has a right of access to her own driver's license number under section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). The remaining information includes two driver's license numbers and we are not able to discern which driver's license number belongs to the requestor. As such, we rule conditionally. If the information we have marked does not belong to the requestor, the city must withhold the information under section 552.130. However, if the information we have marked belongs to the requestor, the city may not withhold it under section 552.130 and must release it to this requestor. As no further exceptions to disclosure have been raised, the city must release the remaining information.³

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.

²Section 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. 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).

³We note the requestor has a right of access beyond that of the general public to some of the information being released. *See generally* Gov't Code § 552.023(a); ORD 481 at 4. Accordingly, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office.

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,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 525499

Enc. Submitted documents

c: Requestor
(w/o enclosures)