



February 12, 2001

Ms. Janice Mullenix
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR2001-0515

Dear Ms. Mullenix:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144111.

The Department of Transportation (the "department") received a request for a list of the persons whose applications for motor vehicle titles have been denied. You claim that the requested information "is covered by Section 552.130 of the Government Code" and is "governed exclusively by the provision of the Texas Motor Vehicle Records Disclosure Act, Transportation Code, chap. 730, and the federal Driver's Privacy Protection Act, 18 USC §§ 2721-2725." The requestor has also submitted comments to this office. *See Gov't Code* § 552.304 (person may submit comments to attorney general's office as to why information should or should not be released). We have considered the arguments raised and reviewed the submitted information.

You note that the release of Texas "motor vehicle records" is controlled by chapter 730 of the Transportation Code. "Motor vehicle record" as defined in this chapter,

means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document *issued* by an agency of this state or a local agency authorized to issue an identification document. The term does not include a record that pertains to a motor carrier.

Transp. Code § 730.003(4) (emphasis added).

You also assert that release of the requested information is prohibited by title 18 of the United States Code. These provisions restrict the release of a "motor vehicle record." In that title, "motor vehicle record" "means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card *issued* by a department of motor vehicles." 18 U.S.C. § 2725 (emphasis added).

Similarly, section 552.130 of the Government Code excepts from disclosure information that “relates to a motor vehicle title or registration *issued* by an agency of this state.” Gov’t Code § 552.130(a)(2) (emphasis added).

Thus, the pertinent statutes apply only to responsive records which pertain or relate to permits, titles, registrations, and identification cards that were *issued* by the department. In this case, the request is for applicants for titles that were *not* issued. The submitted materials do not include any references to titles that were issued, and you have not demonstrated how this information pertains or relates to any such a document that was *issued* by any agency. We find that the requested information is not a “motor vehicle record” as that term is contemplated by either chapter 730 of the Government Code or title 18 of the United States Code. Therefore, release of this information is not governed by the provisions of these statutes. We also find that you have not demonstrated that the responsive information relates to any motor vehicle title or registration that was *issued* by an agency of the state. Therefore, the information is not excepted from disclosure by section 552.130 of the Government Code. Consequently, the information must be released to this requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/er

Ref: ID# 144111

Encl: Submitted documents

cc: Mr. Mark L. Aschermann
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(w/o enclosures)