



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 11, 2004

Mr. Miles K. Risley
Senior Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2004-1049

Dear Mr. Risley:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 197389.

The City of Victoria (the "city") received a request for an offense report pertaining to a harassment charge. The city claims the submitted information is excepted from public disclosure under section 552.103 of the Government Code.

Section 552.103 excepts from required public disclosure "information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party." Gov't Code § 552.103. The city states the county district attorney has set the case for trial. Because the city is not a party to this litigation, the city has no section 552.103 interest in information related to the litigation. *See* Open Records Decision No. 392 (1983). In this type of situation, we require an affirmative representation from the prosecuting attorney representing the State of Texas in the litigation that he or she wants the requested information withheld from disclosure under section 552.103. You have not provided us with a representation from the district attorney requesting that the city withhold the submitted information from disclosure under section 552.103. Therefore, the city may not withhold the requested information under section 552.103.

The information includes motor vehicle information excepted from disclosure under section 552.130. Section 552.130 provides in relevant part:

- (a) Information is excepted from the requirement 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]

(2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold the Texas drivers' license numbers under section 552.130. However, the purpose of section 552.130 is to protect a person's privacy. Therefore, the requestor has a special right of access to his driver's license number pursuant to section 552.023 of the Government Code. Section 552.023 provides a person or a person's authorized representative a special right of access to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person's privacy interests. Hence, the city must release the requestor's driver's license number to him.

The information also includes social security numbers, which are excepted from required public disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if they were obtained or are maintained by the city pursuant to any provision of law enacted on or after October 1, 1990. *See* Gov't Code § 552.101 (Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."); Open Records Decision No. 622 (1994). However, the city must release the requestor's social security number to him pursuant to section 552.023.

In summary, except for the requestor's Texas driver's license number and social security number, the city must withhold the Texas drivers' license numbers under section 552.130 and the social security numbers under federal law if they were obtained or are maintained by the city pursuant to any provision of law enacted on or after October 1, 1990. The city must release the remaining information.¹

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

¹We note that some of the requested information is private information pertaining to the requestor and therefore must not be released to the general public. If you receive a subsequent request for the information, you should seek a decision from this office at that time. Gov't Code § 552.352 (distribution of confidential information is criminal offense).

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).

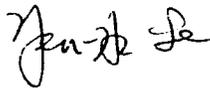
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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); *Tex. Dep't of Pub. 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 of the Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 197389

Enc: Submitted documents

c: Mr. David Espindola
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Victoria, Texas 77904
(w/o enclosures)