



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 16, 2006

Ms. Karen Rabon
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2006-01559

Dear Ms. Rabon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 242741.

The Office of the Attorney General (the "OAG") received a request for the vehicle identification numbers of vehicles that State Farm Mutual Insurance Company classified as "total losses" but did not brand as such. The requestor submitted a second request asking the OAG to verify whether the vehicle identification numbers that he provided match those cars that State Farm classified as "total losses" and to provide any information that the OAG has for such cars. The OAG claims the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. Additionally, the OAG notified State Farm of the request and of its right to submit arguments to this office as to why the information should not be released. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Act in certain circumstances).* We have considered the exceptions the OAG claims and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor.

¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988).* This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We first address the requestor's second request asking the OAG to verify whether the vehicle identification numbers that he provided match those cars that State Farm classified as "total losses" and to provide any information that the OAG has for such cars. This request requires the OAG to conduct research in order to provide the verification the requestor seeks. The Public Information Act does not require a governmental body to perform legal research for a requestor or to answer general questions. Open Records Decision No. 563 at 8 (1990). We thus conclude that the OAG is not required to respond to the request since research is required to determine which numbers match the requestor's numbers. Furthermore, because the request for information relating to such numbers is dependent on the research results, the OAG need not comply with that request either to secure the information.

Next, the OAG asserts section 552.130 excepts the vehicle identification numbers responsive to the first request from public disclosure. Section 552.130 excepts from public disclosure information that relates to a Texas motor vehicle title or registration. We agree the OAG must withhold the submitted Texas vehicle identification numbers pursuant to section 552.130.

The requestor argues he is entitled to some of the vehicle identification numbers because he owned these cars at one time. The purpose of section 552.130 is to protect a person's privacy. Thus, an owner of a vehicle would have a special right of access to one's own motor vehicle information under section 552.023 of the Government Code. Gov't Code § 552.023 (person has special right of access to information held by governmental body that relates to the person and that is protected from public disclosure by laws intended to protect person's privacy interests). Here, although the requestor may have owned the vehicles at one time in the past, he has not shown that he is the current owner of the vehicles associated with the vehicle identification numbers. Thus, the requestor may not obtain the numbers in accordance with section 552.023.

Second, the requestor contends he has a right of access under section 730.007 of the Transportation Code. Section 730.004 states an agency may not disclose personal information about a person that was obtained in connection with a motor vehicle record. Transp. Code § 730.004. However, section 730.007 enumerates the instances when disclosure is permitted, including for use in connection with a matter of "motor vehicle or motor vehicle operator safety" and for use in an "investigation in anticipation of litigation." *Id.* § 730.007(a)(2)(B)(I), (D). An "agency" for purposes of chapter 730 is an "agency . . . that compiles or maintains motor vehicle records." *Id.* § 730.003(1). The OAG is not an agency as defined by section 730.003(1). Therefore, chapter 730 does not apply to the OAG.

Lastly, the requestor similarly asserts that he has a right of access under the Driver's Privacy Protection Act of 1994 (the "DPPA"), 18 U.S.C. § 2721. The DPPA limits the release of personal information collected by the Texas Department of Public Safety (the "DPS") in connection with motor vehicle records. 18 U.S.C. §§ 2721-2725; Attorney General Opinion JC-0499 at 1 (2002). This office concluded that the DPPA applies to information in the possession of the DPS. Attorney General Opinion JC-0499 at 2. Here, the information is in the possession of the OAG. Thus, the DPPA is inapplicable.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

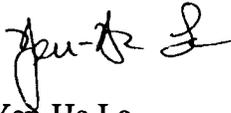
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 at 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# 242741

Enc. Submitted documents

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