



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2006

Ms. Mary Jean Meier
Administrative Support II
Baytown Police Department
3200 North Main Street
Baytown, Texas 77521

OR2006-08622

Dear Ms. Meier:

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# 255818.

The Baytown Police Department (the "department") received a request for case number 2006-21143. You have submitted the report for our review and marked the information that you presumably seek to withhold from disclosure. We have reviewed the submitted information.

Initially, we must address the department's procedural obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for an attorney general's decision and state the exceptions that apply no later than the tenth business day after the date of receiving the written request. Gov't Code § 552.301(b). Under section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id* § 552.301(e)(1)(A)-(D). In this instance, you have submitted the responsive documents for our review. Attached to the documents is a cover letter dated May 25, 2006 in which you state that you have previously forwarded this office a request for a ruling in a letter also dated May 25, 2006. We have searched our files and have not found the request for a ruling that you mention in your May 25 letter. Furthermore, we did not receive the following information: 1) comments stating the reasons why the information you have highlighted in the submitted report should be excepted from disclosure; 2) a copy of the written request for information; and 3) information stating when you received the request for information. Accordingly, we conclude that you have failed to comply with section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *Id.* § 552.302; *see also Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness); Open Records Decision No. 319 (1982). Generally speaking, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Sections 552.130 and 552.147 of the Government Code can provide compelling reasons to overcome this presumption. Accordingly, we will review your markings to determine whether these exceptions are applicable to any portion of the submitted information.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Therefore, the Texas motor vehicle information you have marked in pink is confidential and must be withheld under section 552.130.

We note that the submitted information contains social security numbers. Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. 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 under the Act. Therefore, the department must withhold all social security numbers and partial social security numbers under section 552.147.

In summary, the department must withhold 1) the Texas motor vehicle record information you have marked in pink under section 552.130 of the Government Code; and 2) all social security numbers and partial social security numbers contained in the report pursuant to section 552.147 of the Government Code. The department must release the remaining information to the 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, 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); *Texas 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 Office of the Attorney General 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,



Candice M. De La Garza
Assistant Attorney General
Open Records Division

CMD/krl

Ref: ID# 255818

Enc. Submitted documents