



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2007

Mr. W. Montgomery Meitler
Assistant Counsel
Office of Legal Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2007-00831

Dear Mr. Meitler:

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# 269771.

The Texas Education Agency (the "agency") received a request for information related to five driving safety schools. You state that the agency has released some of the requested information. You claim that a portion of submitted information is excepted from disclosure under section 552.130 of the Government Code. With respect to the remaining information, the agency takes no position on whether it is excepted from disclosure, but you state that release of this information may implicate the proprietary interests of DefensiveDriving.com. Accordingly, you inform us, and provide documentation showing, that you notified this party of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *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 in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Initially, we note that an interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party

should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). Although DefensiveDriving.com notified the agency that it objects to the release of its information, as of the date of this letter the company has not submitted comments to this office explaining why its information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information relating to DefensiveDriving.com would implicate the company's proprietary interests. *See* Gov't Code § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence that release of requested information would cause that party substantial competitive harm). Accordingly, we conclude that the agency may not withhold any portion of the submitted information based on the proprietary interests of DefensiveDriving.com.

You assert that some of the submitted information is excepted under section 552.130 of the Government Code, which provides that information relating to a Texas driver's license is excepted from public release. Gov't Code § 552.130(a)(1). You state that the agency license number you have marked is also the individual's Texas driver's license number. Based on your representations and our review, we agree that the agency must withhold the Texas driver's license number you have marked under section 552.130.

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

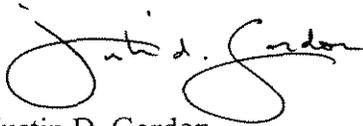
free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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,



Justin D. Gordon
Assistant Attorney General
Open Records Division

JDG/sdk

Ref: ID# 269771

Enc. Submitted documents

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