



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 29, 2007

Mr. David M. Swope
Assistant County Attorney
Harris County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002

OR2007-06618

Dear Mr. Swope:

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# 279556.

The Harris County Toll Road Authority (the "authority") received a request for information pertaining to toll road violators. You state that the authority does not have information responsive to parts of the request. We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received, nor does it require a governmental body to prepare new information in response to a request. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984). You claim that the responsive information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

¹We 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.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information other statutes make confidential. Section 730.004 of the Transportation Code provides that “an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.” Transp. Code § 730.004. “Personal information” includes a person’s name and address but not the zip code. *Id.* § 730.003(6). The Texas Department of Transportation is an “agency” for purposes of chapter 730. *See id.* § 730.003(1) (“agency” is state agency that compiles or maintains motor vehicle records). You inform us that pursuant to a contract between the Texas Department of Transportation and the authority, the Texas Department of Transportation has provided the authority with some information for use in carrying out its governmental functions. *See id.* § 730.007(a)(2)(A)(I) (personal information may be disclosed to government agency in carrying out its functions). An authorized recipient of personal information may not redisclose the personal information and to do so is a misdemeanor offense. *Id.* § 730.013(a), (d). Based on the authority’s representations and our review, we agree that the names and addresses, but not the zip codes, obtained from the Texas Department of Transportation must be withheld. Accordingly, we have marked the information that must be withheld from disclosure under sections 730.004 and 730.013 of the Transportation Code in conjunction with section 552.101 of the Government Code.

You also claim that the license plate numbers and vehicle identification numbers disclosed in the submitted information are excepted from release under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state. *See Gov’t Code* § 552.130(a)(1)-(2). We have marked the Texas license plate numbers and vehicle identification numbers that the authority must withhold under section 552.130.

In summary, the authority must withhold from disclosure the information we have marked under sections 730.004 and 730.013 of the Transportation Code in conjunction with section 552.101 of the Government Code. The authority must also withhold from disclosure the Texas license plate numbers and vehicle identification numbers we have marked pursuant to section 552.130 of the Government Code. The remaining information must be released.

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,



Aries Solis
Assistant Attorney General
Open Records Division

AS/eeg

Ref: ID# 279556

Enc. Submitted documents

c: Mr. Rad Sallee
Houston Chronicle
P.O. Box 4260
Houston, Texas 77024
(w/o enclosures)