



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2007

Mr. Byron McMillen  
Captain  
Panola County Sheriff's Department  
314 West Wellington  
Carthage, Texas 75633

OR2007-16162

Dear Mr. McMillen:

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# 296668.

The Panola County Sheriff's Department (the "department") received a request for "all documents on file with the [department] for each [b]ail bond company listed on the approved list of [b]ondsmen" effective January 2007 and July 2007. The requestor also seeks a list of every approved bail bond company from September 1, 2005, and any letter to approved bondsmen requesting updated information. You state that you have released a portion of the requested information. The department takes no position on whether the submitted information is excepted from disclosure, but states that release of this information may implicate the proprietary interests of nine third parties. Accordingly, you inform us, and provide documentation showing, that you notified these third parties of the request and of each company's 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 reviewed the submitted information. We have also received and considered comments from the requestor: *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, none of the third parties have submitted to this office any reasons explaining why the submitted information should not be released. Therefore, our office has not been provided with any basis to conclude that any of the notified third parties have protected proprietary interests in any of the submitted information. *See Open Records Decision Nos. 661 at 5-6 (1999)* (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3. Accordingly, we conclude that the department may not withhold any portion of the submitted information on the basis of any proprietary interest one of the notified third parties may have in the information.

Next, we note that the submitted information contains information that is subject to sections 552.130 and 552.136 of the Government Code.<sup>1</sup> Section 552.130 of the Government Code excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. In accordance with section 552.130 of the Government Code, the department must withhold the Texas motor vehicle record information we have marked in the submitted information.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. The department must, therefore, withhold the account numbers we have marked under section 552.136 of the Government Code.

We note that a portion of the submitted information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are protected by copyright. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of materials protected by copyright, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See Open Records Decision No. 550 (1990).*

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The department also must withhold the account numbers we have marked under section 552.136 of the Government Code.<sup>2</sup> The remaining information must be released, but any copyrighted information may only be released in accordance with copyright law.<sup>3</sup>

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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).

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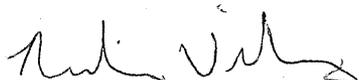
<sup>2</sup>We note, however, that because this requestor has a special right of access to some of the information at issue under section 552.023, in the event the department receives another request for this information from someone other than this requestor, the department must again ask this office for a decision whether the information is subject to public disclosure.

<sup>3</sup>We note that the submitted information contains social security numbers. 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.

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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/jb

Ref: ID# 296668

Enc. Submitted documents

c: Mr. Lester Bellows  
318 West Wellington  
Carthage, Texas 75633  
(w/o enclosures)

Allen Bail Bonds  
505 East End Boulevard  
Marshall, Texas 75670  
(w/o enclosures)

Owens Bonding Company  
2702 SH 315  
Carthage, Texas 75633  
(w/o enclosures)

Graves Bail Bonds  
P.O. Box 1012  
Omaha, Texas 75571  
(w/o enclosures)

Daddy Sam's Bail Bonds  
111 Maple Street  
Carthage, Texas 75633  
(w/o enclosures)

A Fast Response Bail Bonds  
215 North Van Buren  
Henderson, Texas 75652  
(w/o enclosures)

Fast Action Bail Bonds  
318 West Wellington  
Carthage, Texas 75633  
(w/o enclosures)

Freedom Bail Bonds  
200 North Shelby  
Carthage, Texas 75633  
(w/o enclosures)