



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 11, 2009

Mr. Gregory Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2009-03197

Dear Mr. Alicie:

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# 337159 (BPD case# 2008-53925).

The City of Baytown and the Baytown Police Department (collectively the "city") received two requests for information pertaining to a specified accident. You claim that the submitted 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.

You argue the submitted information is confidential under section 552.101 of the Government Code in conjunction with section 707.006 of the Transportation Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by other statutes. Gov't Code § 552.101. Section 707.006 provides:

- (a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.

(b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

(c) An offense under this section is a Class A misdemeanor.

Transp. Code § 707.006. We note that section 707.006 does not expressly make information confidential. In order for section 552.101 to apply, a statute must contain language expressly making certain information confidential. *See* Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987), 465 at 4-5 (1987). Confidentiality cannot be implied from the structure of a statute or rule. *See* ORD 465 at 4-5. Accordingly, the city may not withhold any portion of the submitted information from disclosure pursuant to section 707.006 of the Transportation Code in conjunction with section 552.101 of the Government Code.

You also raise section 552.130 of the Government Code for portions of the submitted information. Section 552.130 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. The city must withhold the Texas motor vehicle record information from the submitted video recordings pursuant to section 552.130 of the Government Code. We note, however, that one of the requestors is one of the individuals whose Texas motor vehicle record information is at issue. As such, this requestor has a right of access to the information that pertains to him. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). We also note that if the city is unable to redact the portions of the submitted video recordings that reveal Texas motor vehicle record information, the city must withhold the video recordings in their entirety pursuant to section 552.130. *See* Open Records Decision No. 364 (1983).

In summary, the city must withhold the Texas motor vehicle record information in the submitted video recordings under section 552.130 of the Government Code, except the information pertaining to one of the requestors, which must be released to him.<sup>1</sup> The remaining information must be released. However, if the city is unable to redact the portions of the submitted video recordings that reveal Texas motor vehicle record information, the city must withhold the video recordings in their entirety pursuant to section 552.130.

This letter ruling is limited to the particular information 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 information or any other circumstances.

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<sup>1</sup>Should the city receive another request for these same records from a person who would not have a right of access to one of the requestor's private information, the city should resubmit these records and request another decision. *See* Gov't Code §§ 552.301, .302.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/eeg

Ref: ID# 337159

Enc. Submitted documents

cc: Requestor (2)  
(w/o enclosures)