



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 21, 2009

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR2009-06954

Dear Ms. Alexander:

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# 343772.

The Texas Department of Transportation (the "department") received a request for information related to any spills or cleanups of hazardous materials which may have affected a particular address. You claim that the requested information is excepted from disclosure under section 552.130 of the Government Code. You also state that you have notified Cooke County Emergency Management ("Cooke County") of this request and of their right to submit arguments stating why their information should not be released. *See Gov't Code § 552.304* (providing that interested third party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.130 of the Government code provides as follows:

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.

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Gov't Code § 552.130. You argue that Exhibit B consists of motor vehicle title, registration, and driver's license information that must be withheld under section 552.130(a). You further indicate that chapter 730 of the Transportation Code does not authorize disclosure of the information at issue in this instance. *See id.* § 552.130(b). We determine that portions of the information at issue are within the scope of section 552.130(a). Thus pursuant to section 552.130(b), we will consider whether the release of these portions is authorized by chapter 730. However, one of the submitted records in Exhibit B pertains to a vehicle that is not registered in Texas, and we note section 552.130 does not apply to out-of-state motor vehicle record information. Therefore, section 552.130 is not applicable to this record. As you raise no further exceptions for this information, it must be released.

Section 730 of the Transportation Code prohibits the disclosure and use of personal information contained in motor vehicle records by an agency that compiles and maintains motor vehicle records, except as authorized by the individual or the law. *See* Transp. Code § 730.002. Section 730.004 provides that "an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record." *Id.* § 730.004. The term "personal information" includes an individual's name, photograph, and address, but not the zip code. *Id.* § 730.003(6). We note, however, that date of birth is not included in the list of personal information enumerated in section 730.003(6). The term "motor vehicle record" means "a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by any agency of this state or a local agency authorized to issue an identification document." *Id.* § 730.003(4). We note, however, that the term "motor vehicle record" does not include "a record that pertains to a motor carrier." *Id.* § 730.003(4)(A). A "motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a roadway or highway in this state. *See id.* § 643.001(6).

Upon review of the submitted information, we find that the owner of the vehicle at issue in Exhibit B falls within the definition of a "motor carrier." *See id.* Therefore, the information pertaining to the vehicle was not obtained by the department as part of a motor vehicle record as defined by subsection 730.003(4), but rather, it was obtained as part of a motor carrier record. Accordingly, release of the information pertaining to this vehicle is not prohibited under section 730.004 of the Transportation Code. By specifying that information obtained in connection with motor carrier records is not exempt from disclosure, chapter 730 authorizes the release of such information. *See* Transp. Code § 730.003(4)(A). Therefore, we conclude that the information pertaining to this vehicle is not excepted from disclosure under section 552.130. However, we have marked information pertaining to an individual who is not a "motor carrier." Accordingly, the department must withhold the information we have marked under section 552.130. However, none of the remaining information you have marked constitutes section 552.130 or 730.004 information. As you raise no further exceptions to disclosure, the remaining information must be released to the requestor.

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.

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, 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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/rl

Ref: ID# 343772

Enc. Submitted documents

c: Requestor
(w/o enclosures)