



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

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Mr. Erik A. Eriksson
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Port of Houston Authority
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Houston, Texas 77252-2562

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Austin, Texas 78746-7568

OR2009-09471

Dear Mr. Eriksson and Ms. Banowsky:

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# 348406.

The Port of Houston Authority (the "authority") received a request for all pictures, photographs, drawings, or depictions of an area where a specified accident occurred and any police reports concerning the accident. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the submitted information consists of a completed incident report made by the authority's police department, which is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108." Gov't Code § 552.022(a)(1). Although you raise section 552.103 of the Government Code, this section is a discretionary exception to disclosure that protects the governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not "other law" that makes information confidential for the purposes

of section 552.022. Therefore, the authority may not withhold the submitted information under section 552.103 of the Government Code. We note, however, that some of the submitted information may be subject to section 552.130 of the Government Code.¹ Therefore, we will consider whether this section requires you to withhold some of the submitted information.

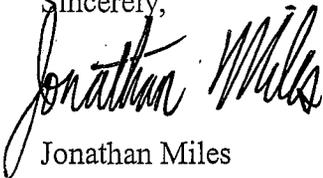
Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code 552.130(a). We are unable to determine if the license plate in the submitted information, which we have marked, was issued by an agency of this state. Therefore, we must rule conditionally. To the extent that the license plate number we have marked was issued by an agency of this state, the authority must withhold the license plate number under section 552.130. If the license plate number was not issued by an agency of this state, then the license plate number must be released.

In summary, the authority must withhold the license plate number we have marked under section 552.130 of the Government Code if it was issued by an agency of this state. The remaining information must be released.

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

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

Ref: ID# 348406

Enc. Submitted documents

c: Requestor
(w/o enclosures)