



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2009

Mr. Adam Falco
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2009-09575

Dear Mr. Falco:

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# 348904.

The City of College Station (the "city") received a request for the names and addresses of individuals who have received a notice of violation issued under a specified city ordinance pertaining to red-light cameras. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Initially, we must address the city's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See* Gov't Code § 552.301(a), (b). You state that the city received the request for information on April 22, 2009. However, you did not request a ruling from this office until May 7, 2009. Thus, the city failed to comply with the procedural requirements mandated by section 552.301.

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.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See Gov't Code § 552.302; Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Section 552.101 of the Government Code can provide a compelling reason to overcome this presumption; therefore, we will consider the city's claims under this exception.

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. Section 552.101 encompasses section 730.013 of the Transportation Code, which provides that, for purposes of chapter 730 of the Transportation Code:

(a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical format the personal information [sic] was disclosed to the recipient by the applicable agency.

(b) An authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.

(c) Any authorized recipient who resells or rediscloses personal information obtained from an agency shall be required by that agency to:

(1) maintain for a period of not less than five years records as to any person or entity receiving that information and the permitted use for which it was obtained; and

(2) provide copies of those records to the agency on request.

(d) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$25,000.

Transp. Code § 730.013. You state that the city contracts with a third party, American Traffic Solutions ("ATS"), to operate red light cameras at intersections. We understand that the city uses these cameras to photograph the license plates of vehicles that illegally proceed through intersections. You state that ATS then uses the license plate numbers of Texas registered vehicles to obtain additional motor vehicle record information from the Texas Department of Transportation ("TxDOT"). We note that TxDOT is an agency under

section 730.003(1) that obtains or compiles motor vehicle records. We further note that the names and addresses of the owners of Texas registered vehicles obtained by ATS from TxDOT are considered personal information under section 730.003(6). *See id.* §730.003(6) (personal information means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, and address, but not zip code, telephone number, or medical or disability information). Accordingly, we find that, by obtaining motor vehicle information from TxDOT to assist the city in carrying out its functions, ATS is an authorized recipient of personal information for purposes of section 730.013. *See id.* § 730.007(a)(2)(A)(ii) (authorized recipient includes a private entity acting on behalf of a government agency in carrying out the agency's functions).

Based upon your representations and our review of the information at issue, we conclude that, because the names and addresses of owners of Texas registered vehicles were obtained from TxDOT by an authorized recipient, and because this information is in the identical or substantially identical format that it was received by ATS from TxDOT, the names and addresses, other than zip codes, of owners of Texas registered vehicles are confidential under section 730.013(a) of the Transportation Code. Accordingly, as we have no indication that release of this information would be for a use permitted under section 730.007, we conclude that the city must withhold the names and addresses, other than zip codes, of Texas registered vehicles under section 552.101 of the Government Code.

To the extent that the responsive information relates to individuals whose vehicles are registered in states other than Texas, you raise section 2721 of title 18 of the United States Code, which is also encompassed by section 552.101 of the Government Code. Section 2721 provides in pertinent part:

(a) In general.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9)[.]

...

(c) Resale or redisclosure.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). . . . Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

See 18 U.S.C. § 2721(a), (c). Responsive information consisting of the names and addresses of owners of vehicles registered in states other than Texas is considered personal information for purposes of section 2725(3). *See id.* § 2725(3) (personal information means information that identifies a person, including an individual's photograph, social security number, driver identification number, name, address, but not the 5-digit zip code, telephone number, and medical or disability information). We understand that ATS uses the license plate numbers obtained from the red light cameras to procure additional motor vehicle record information from other states' equivalents to TxDOT. Thus, we conclude that, by obtaining motor vehicle information from other state agencies to assist the city in carrying out its functions, ATS is an authorized recipient of personal information for purposes of section 2721(c). *See id.* § 2721(b)(1) (providing that personal information may be disclosed by a state department of motor vehicles to any entity acting on behalf of a Federal, State, or local agency in carrying out its functions). Accordingly, as we have no indication that release of this information to the requestor would be for a use permitted under section 2721(b), we conclude that the city must withhold this information under section 552.101 of the Government Code in conjunction section 2721 of title 18 of the United States Code.

In summary, the city must withhold the names and addresses, other than zip codes, of owners of (1) Texas registered vehicles under section 552.101 of the Government Code in conjunction with section 730.004 of the Transportation Code; and (2) vehicles registered in states other than Texas under section 552.101 in conjunction with section 2721 of title 18 of the United States Code. 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,

A handwritten signature in cursive script that reads "Jennifer Luttrall".

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 348904

Enc. Submitted documents

c: Requestor
(w/o enclosures)