



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2009

Ms. Mariví Gambini
City Attorney's Office
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2009-13987

Dear Ms. Gambini:

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# 357540.

The City of Irving (the "city") received a request for a list of city or Dallas Area Rapid Transit vehicles photographed in "photo enforcement" intersections during a specified time period, as well as the information necessary to access the video recordings of those incidents. You claim portions of the submitted notice of violation are excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor. *See Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).*

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 other statutes that make information

¹Although you state the city does not have the specifically requested list of vehicles, you have determined the submitted notice of violation contains information responsive to the request. *Cf.* Open Records Decision No. 561 at 7 (1990) (governmental body must make a good faith effort to relate a request to information held by it). Furthermore, we assume 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 those records contain substantially different types of information than that submitted to this office.

confidential, such as section 730.004 of the Transportation Code, which provides that “[n]otwithstanding any other provision of law to the contrary, including chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.” Transp. Code § 730.004. *See also id.* § 730.003(4) (defining motor vehicle record to include 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 an agency of this state). Section 552.101 also 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 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 the city contracts with a third party, American Traffic Solutions (“ATS”), to operate red light cameras at intersections in the city. We understand the city uses these cameras to photograph the license plates of vehicles that illegally proceed through those 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 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 personal information of an owner of Texas registered vehicles was 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 personal information, other than zip codes, of an owner of Texas registered vehicles is 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 personal information, other than zip codes, of an owner of Texas registered vehicles under section 552.101 of the Government Code in conjunction with section 730.013(a) of the Transportation Code.

You claim some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Therefore, the city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.

You assert some of the remaining information is excepted under section 552.136 of the Government Code, which provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding 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. You argue the personal identification number ("PIN") contained in the notice of violation is an access device number for purposes of section 552.136. You explain the PIN is used to access an individual's account in order to, among other things, initiate a transfer of funds to pay the fine associated with the notice of violation. Based on your representations, we conclude the PIN you have highlighted constitutes an access device number for purposes of section 552.136. Thus, the city must withhold the highlighted PIN under section 552.136 of the Government Code.

In summary, the city must withhold the personal information, other than zip codes, of an owner of Texas registered vehicles under section 552.101 of the Government Code in conjunction with section 730.013(a) of the Transportation Code; the marked Texas motor vehicle record information under section 552.130 of the Government Code; and the marked PIN under section 552.136 of the Government 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, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 357540

Enc. Submitted documents

c: Requestor
(w/o enclosures)