



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 17, 2009

Mr. Hyatt O. Simmons  
General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2009-17889

Dear Mr. Simmons:

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# 365776 (DART ORR No. 6886).

Dallas Area Rapid Transit ("DART") received a request for information relating to a specified accident that involved a DART bus. You inform us that DART is not in possession of a responsive police report.<sup>1</sup> You state that some of the requested information has been released. You claim that other responsive information is excepted from disclosure under sections 552.130 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We note that DART may be required to withhold some of the submitted information under section 552.117 of the Government Code.<sup>2</sup> Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member

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<sup>1</sup>We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Unlike other exceptions to disclosure under the Act, this office will raise section 552.117 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See Gov't Code* §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

information of a current or former official or employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request under section 552.024 that the information be kept confidential. We have marked information relating to a current or former DART employee. DART must withhold that information under section 552.117(a)(1) to the extent the employee concerned timely requested confidentiality for the marked information under section 552.024.

Section 552.130 of the Government Code exempts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). DART must withhold the Texas motor vehicle information we have marked under section 552.130.

Section 552.136 of the Government Code provides that "[n]otwithstanding any other provision of [the Act], 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(b); *see id.* § 552.136(a) (defining "access device"). DART must withhold the insurance policy number we have marked under section 552.136.<sup>3</sup>

In summary: (1) DART must withhold the information we have marked under section 552.117(a)(1) of the Government Code to the extent the current or former DART employee concerned timely requested confidentiality for the marked information under section 552.024 of the Government Code; (2) the marked Texas motor vehicle information must be withheld under section 552.130 of the Government Code; and (3) the marked insurance policy number must be withheld under section 552.136 of the Government Code. The rest of the submitted information must be released.

You also ask this office to issue a previous determination that would authorize DART to withhold "Texas driver's license numbers, motor vehicle identification numbers, motor vehicle plates and personal identification numbers" under section 552.130 of the Government Code without the necessity of requesting a decision by this office under the Act. *See id.*

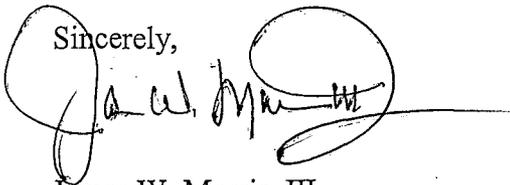
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<sup>3</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

§ 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). We note that this office recently issued a previous determination in Open Records Decision No. 684 (2009) that generally authorizes any governmental body subject to the Act to withhold a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number under section 552.130 without seeking a decision from this office. *See* ORD 684 at 7-8. We decline to grant DART a previous determination for any other types of information at this time. 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](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,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a horizontal line extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 365776

Enc: Submitted documents

c: Requestor  
(w/o enclosures)