



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2010

Ms. Martha T. Williams
Olson & Olson L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2010-04565

Dear Ms. Williams:

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# 374309.

The City of Oak Ridge North (the "city"), which you represent, received a request for all photographs and reports pertaining to the investigation of a specified offense at specified locations. You state the city has released or will release basic information to the requestor. *See* Gov't Code § 552.108(c) (stating basic information about arrested person, arrest, or crime may not be withheld under section 552.108); Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the remaining requested information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note portions of the submitted information are made expressly public under section 552.022 of the Government Code, which provides, in relevant part, as follows:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). In this instance, portions of the submitted information pertain to the expenditure of funds by the city that fall within the purview of subsection 552.022(a)(3). Although you assert this information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code, these sections are discretionary exceptions within the Act and not "other law" that makes information confidential. *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); Open Records Decision Nos. 665 at 2 n. 5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the information subject to section 552.022(a)(3), which we have marked, may not be withheld under either section 552.103 or section 552.108. However, you claim that portions of the information at issue are excepted from disclosure under section 552.130 of the Government Code. Further, we note that some of the information subject to section 552.022(a)(3) may be protected under section 552.136 of the Government Code.¹ Because sections 552.130 and 552.136 are other law for purposes of section 552.022, we will address these exceptions for the information subject to section 552.022(a)(3). We will also consider your claims under sections 552.103, 552.108, and 552.130 for the information that is not subject to section 552.022.

We first address the information subject to section 552.022(a)(3) of the Government Code. 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 issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. Upon review of the information at issue, we determine that the city must withhold the Texas license plate numbers we have marked under section 552.130 of the Government Code. However, the remaining information subject to section 552.022(a)(3) does not contain any information pertaining to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Therefore, the city may not withhold any of the remaining information subject to section 552.022(a)(3) under section 552.130.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected,

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).

assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b). Accordingly, the city must withhold the bank account numbers, bank routing numbers, credit card numbers, and cellular telephone account numbers we have marked in the information subject to section 552.022(a)(3) under section 552.136 of the Government Code. As you claim no further exceptions to disclosure of the remaining information subject to section 552.022, that information must be released to the requestor.

We now consider your arguments against disclosure for the information not subject to section 552.022(a)(3) of the Government Code. Section 552.108(a)(1) of the Government Code exempts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* §552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining information relates to a pending criminal investigation and prosecution. Based on your representation and our review of the information at issue, we conclude that release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the city may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code.²

In summary, (1) the city must withhold the Texas license plate numbers we have marked under section 552.130 of the Government Code, as well as the bank account numbers, bank routing numbers, credit card numbers, and cellular telephone account numbers we have marked under section 552.136 of the Government Code;³ (2) the city must release the remaining information we have marked pursuant to section 552.022(a)(3) of the Government Code; and (3) the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

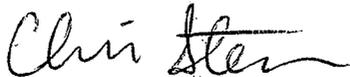
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

³We 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 a Texas license plate number under section 552.130 of the Government Code and a credit card number, bank account number, and bank routing number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 374309

Enc. Submitted documents

c: Requestor
(w/o enclosures)