



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 28, 2010

Mr. Warren M. S. Ernst
Chief of the General Counsel Division
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2010-06072

Dear Mr. Ernst:

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# 377644.

The City of Dallas (the "city") received a request for the video of a specified intersection from a certain date. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted video recording.

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. You claim the submitted video recording is confidential under section 552.101 in conjunction with section 707.006 of the Transportation Code, which provides as follows:

- (a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.
- (b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.
- (c) An offense under this section is a Class A misdemeanor.

Transp. Code § 707.006. We note that section 707.006 does not expressly make information confidential. In order for section 552.101 to apply, a statute must contain language expressly making certain information confidential; confidentiality cannot be implied from the structure of a statute or rule. *See* Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987), 465 at 4-5 (1987). Accordingly, the city may not withhold the submitted video recording pursuant to section 552.101 of the Government Code in conjunction with section 707.006 of the Transportation Code.

You also claim that portions of the submitted video recording are excepted from public disclosure under section 552.130 of the Government Code. Section 552.130 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). The submitted video recording includes Texas license plate numbers that are subject to section 552.130. You also state the city lacks the technical capability to redact this information from the video recording. We therefore conclude the city must withhold the video recording in its entirety under section 552.130 of the Government Code.¹ *See* Open Records Decision No. 364 (1983).

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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

¹We 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 the portion of any video depicting a discernable Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision

Ref: ID# 377644

Enc. Submitted documents

cc: Requestor
(w/o enclosures)