



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 24, 2012

Mr. David V. Overcash  
Wolffe, Tidwell, McCoy, LLP  
2591 Dallas Parkway, Suite 205  
Frisco, Texas 75034

OR2012-02875

Dear Mr. Overcash:

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# 446384 (Anna File No. C03029PIR20111130-001).

The City of Anna (the "city"), which you represent, received a request for all investigative material for a specified automobile accident, including photographs, reports, and statements. You state that you have released some information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

First, you inform us the city has redacted some information in accordance with Open Records Decision No. 684 (2009) and section 552.130 of the Government Code. On September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver's license numbers, without the necessity of seeking a decision from the attorney general. Gov't Code § 552.130(c). However, the amendments are limited to the information described in subsections 552.130(a)(1) and (a)(3) and do not permit a governmental body to redact information described in subsection 552.130(a)(2) regarding motor vehicle titles and registration, such as a license plate number or vehicle identification number, without asking the attorney general for a decision. Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold Texas license plate numbers, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, neither section 552.130 nor Open Records Decision

No. 684 authorizes the city to redact the vehicle identification numbers you have marked under section 552.130 without requesting a ruling from this office. As such, the information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, based on the information you submitted, we can discern the nature of the redacted information at issue. In the future, however, the city should refrain from the unauthorized redaction of responsive information that it submits to this office in seeking an open records ruling. Failure to do so may result in the presumption that the redacted information is public. *See id.* § 552.302.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130. We note the issuing state of a driver's license or motor vehicle registration and witness information are not motor vehicle record information for the purposes of section 552.130, and may not be withheld on that basis.

We also note you have marked motor vehicle record information of a vehicle belonging to a deceased individual in the submitted report and photographs. The purpose of section 552.130 is to protect the privacy interests of individuals. Because the right of privacy lapses at death, motor vehicle record information that pertains solely to deceased individuals may not be withheld under section 552.130. *See Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ ref'd n.r.e.); *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984), H-917 (1976); Open Records Decision No. 272 (1981). Therefore, the city must release the deceased individual's driver's license information. However, if a living person owns an interest in the deceased individual's vehicle, the city must withhold the license plate number and vehicle identification number pertaining to that vehicle under section 552.130 of the Government Code. If no living person owns an interest in the vehicle driven by the deceased individual, the city may not withhold the license plate number and vehicle identification number pertaining to that vehicle under section 552.130.

Further, we note the requestor in this instance is a representative of the company that insured the other vehicle involved in the accident at issue. As such, this requestor has a right of access to that vehicle's license plate number and vehicle identification number. Additionally, to the extent the requestor is acting as the authorized representative of this vehicle's driver in this matter, he has a right of access to her driver's license number. *See Gov't Code* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). However, to the extent the requestor is not acting as the authorized representative of this driver in this matter, the city must withhold the driver's license number we have marked under section 552.130.

Finally, we note the submitted video recordings and photographs contain the license plate numbers of vehicles which were not involved in the accident. The city must withhold the

license plate numbers of the remaining vehicles depicted in the submitted photographs, which were not involved in the accident, under section 552.130. You state the city does not have the technological capability to redact the motor vehicle record information from the submitted videos. Therefore, we determine the city must withhold the videos in their entirety under section 552.130.

In summary, if a living person owns an interest in the deceased individual's vehicle, the city must withhold the license plate number and vehicle identification number pertaining to that vehicle contained in the submitted documents and photographs under section 552.130 of the Government Code. To the extent the requestor is not acting as the authorized representative of the other driver in this incident, the city must withhold that individual's driver's license number from the submitted documents under section 552.130 of the Government Code. The city must withhold the license plate numbers of other vehicles depicted in the submitted photographs under section 552.130 of the Government Code. The city must withhold the submitted videos in their entirety under section 552.130 of the Government Code. The remaining information must be released.<sup>1</sup>

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,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/sdk

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<sup>1</sup>We note the requestor has a right of access to some of the information being released. See Gov't Code § 552.023. Because such information may be confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.

Ref: ID# 446384

Enc. Submitted documents

c: Requestor  
(w/o enclosures)