



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 6, 2014

Mr. Nick Turner  
Assistant County Attorney  
Harris County  
7701 Wilshire Place Drive  
Houston, Texas 77040

OR2014-03929

Dear Mr. Turner:

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# 516101.

The Harris County Toll Road Authority (the "authority") received a request for a list of all complaints and administrative hearings between December 1, 2010 and December 1, 2013. You inform us you will redact access device numbers in accordance with section 552.136(c) of the Government Code.<sup>1</sup> You claim portions of the remaining information are 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 information, a portion of which consists of a representative sample.<sup>2</sup>

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<sup>1</sup>Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

<sup>2</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Initially, we note some of the submitted information is not responsive to the instant request because it pertains to complaints that were made prior to December 1, 2010. This ruling does not address the public availability of any information that is not responsive to the request and the authority is not required to release such information in response to this request.

You inform us you will redact the motor vehicle record information you have marked in Exhibits B and C under section 552.130(c) of the Government Code.<sup>3</sup> Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. Upon review, we find the authority must withhold the information you have marked in Exhibit B, and the additional information we have marked in Exhibit B, under section 552.130 of the Government Code. In addition, we find the authority must withhold the license plate numbers you have marked in Exhibit C under section 552.130 of the Government Code.<sup>4</sup> However, we find none of the remaining information you have marked in Exhibit C consists of motor vehicle record information. Thus, none of the remaining information may be withheld under section 552.130.

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. This exception encompasses information other statutes make confidential. You assert the information in Exhibit C is protected by chapter 730 of the Transportation Code. Section 730.004 of the Transportation Code provides "[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). For purposes of chapter 730 of the Transportation Code, section 730.013 provides in part:

- (a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical

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<sup>3</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>4</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

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.

*Id.* § 730.013(a)-(b). You state the authority uses license plate numbers captured via camera to obtain information regarding the owners of vehicles that have committed toll violations from the Texas Department of Motor Vehicles (“the department”) and corresponding government entities in other states. We note the department is an agency under section 730.003(1) that obtains or compiles motor vehicle records. *See id.* § 730.003(1). We further note the names and addresses of the owners of Texas registered vehicles obtained by the authority from the department 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 the department to assist the authority in carrying out its functions, the authority is an authorized recipient of personal information for purposes of section 730.013. *See id.* § 730.007(a)(2)(A)(I) (authorized recipient includes a government agency collecting information to carry out its functions).

Based upon your representations and our review of the information at issue, we conclude that, because the personal information of owners of Texas registered vehicles was obtained from the department by an authorized recipient, and because this information is in the identical or substantially identical format that it was received by the authority from the department, the personal information, other than zip codes, of owners 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 the authority must withhold the names and addresses you have marked, with the exception of zip codes, of owners of Texas registered vehicles in Exhibit C under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code.

To the extent the remaining information at issue in Exhibit C relates to individuals whose vehicles are registered in states other than Texas, we note that information may be subject to section 2721 of title 18 of the United States Code, which is also encompassed by section 552.101 of the Government Code. Section 2721 provides in pertinent part:

(a) In general.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in 18 U.S.C. 2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in 18 U.S.C. 2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9)[.]

(b) Permissible uses.—Personal information referred to in subsection (a) . . . subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any governmental agency . . . in carrying out its functions[.]

(c) Resale or redisclosure.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). . . . Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

18 U.S.C. § 2721(a)-(c). You indicate some of the remaining information at issue in Exhibit C consists of the names and addresses of owners of vehicles registered in states other than Texas. We note this information is considered personal information for purposes of section 2725(3). *See id.* § 2725(3) (personal information means information that identifies a person, including an individual's photograph, social security number, driver identification number, name, address, but not the 5-digit zip code, telephone number, and medical or disability information). You state the authority uses the license plate numbers obtained from toll road cameras to procure personal information from other states' department equivalent. We conclude the authority, in obtaining personal information from other state agencies to assist in carrying out its functions, is an authorized recipient of personal information for purposes of section 2721(c). *See id.* § 2721(b)(1) (providing that personal information may be disclosed by a state department of motor vehicles to any entity acting on behalf of a Federal, State, or local agency in carrying out its functions). Therefore, because the personal information at issue was obtained from a state department of motor vehicles by an authorized recipient, this information is confidential under federal law. As we have no indication release of this information would be for a use permitted under section 2721(b), we conclude the authority must withhold the names and addresses you have marked, other than zip codes,

of owners of vehicles registered in states other than Texas in Exhibit C under section 552.101 of the Government Code in conjunction with section 2721(c) of title 18 of the United States Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). Upon review, we find the information we have marked in Exhibit B satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the authority must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining responsive information is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the authority may not withhold the remaining responsive information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the authority must withhold the information you have marked in Exhibit B, the additional information we have marked in Exhibit B, and the license plate numbers you have marked in Exhibit C under section 552.130 of the Government Code. The authority must withhold the names and addresses you have marked, other than zip codes, of owners of Texas registered vehicles in Exhibit C under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code. The authority must withhold the names and addresses you have marked, other than zip codes, of owners of vehicles registered in states other than Texas in Exhibit C under section 552.101 of the Government Code in conjunction with section 2721(c) of title 18 of the United States Code. The authority must withhold the information we have marked in Exhibit B under section 552.101 of the Government Code in conjunction with common-law privacy. The authority must release the remaining responsive information.

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.texasattorneygeneral.gov/open/>

[orl\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/dls

Ref: ID# 516101

Enc. Submitted documents

c: Requestor  
(w/o enclosures)