



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 7, 2015

Mr. Joseph J. Gorfida, Jr.  
Assistant City Attorney  
City of Richardson  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2015-06557

Dear Mr. Gorfida:

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# 558966.

The City of Richardson (the "city") received a request for information related to two specified incidents. You state you have released some information to the requestor. You indicate you will withhold information pursuant to section 552.147(b) of the Government Code and section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, as noted above, you state you have released the information contained within Exhibit B; however, Exhibit C, which you seek to withhold in its entirety, contains information identical to the information you state you have released in Exhibit B. Thus, we understand you seek to withhold information you have previously released. The Act does not permit the selective disclosure of information. *See* Gov't Code §§ 552.007(b), .021;

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

Open Records Decision No. 463 at 1-2 (1987). Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold that exact information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See id.* § 552.007; Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). *But see* Open Records Decision Nos. 579 (1990) (exchange of information among litigants in “informal” discovery is not “voluntary” release of information for purposes of statutory predecessor to Gov’t Code § 552.007), 454 at 2 (1986) (governmental body that disclosed information because it reasonably concluded that it had constitutional obligation to do so could still invoke statutory predecessor to Gov’t Code § 552.108). Accordingly, pursuant to section 552.007, the city may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. *See* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Although you raise section 552.108 for the information we have marked in Exhibit C, this section is a discretionary exception and does not make information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Thus, the city may not now withhold the previously released information, which we have marked, under section 552.108. However, portions of the information at issue are subject to section 552.130 of the Government Code, which makes information confidential under the Act. Therefore, we will address the applicability of section 552.130 to the information subject to section 552.007. Additionally, we will address the applicability of the raised exceptions to the information not subject to section 552.007 of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the information not subject to section 552.007 in Exhibit C pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold the information not subject to section 552.007 in Exhibit C, which we have marked, under section 552.108(a)(2) of the Government Code.

You state you will withhold the information you have marked under section 552.130 of the Government Code.<sup>2</sup> We note some of the remaining information contains additional motor vehicle record information subject to section 552.130. Section 552.130 provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. *See id.* § 552.130(a)(1)-(2). Accordingly, the city must withhold the motor vehicle record information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.

In summary, the city must release the information we have marked under section 552.007 of the Government Code; however, in releasing such information, the city must withhold the information you marked, as well as the additional information we have marked, under section 552.130 of the Government Code. With the exception of basic information, the city may withhold the information we have marked in Exhibit C under section 552.108(a)(2) of the Government Code. The remaining information must be released.

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](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,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

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<sup>2</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).

Ref: ID# 558966

Enc. Submitted documents

c: Requestor  
(w/o enclosures)