



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 19, 2015

Ms. Mary Ann Powell
Counsel for City of Tomball
Olson & Olson, L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2015-24303

Dear Ms. Powell:

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# 587662 (ORR No. COT15-012).

The City of Tomball (the “city”), which you represent, received a request for certain citation information, except for the name and street number of the address of the registered vehicle owner listed in the citations.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor specifically excludes the name and street number of the address of the registered vehicle owner listed in the citations, which you have redacted, from the scope of the request. Accordingly, these types of information are not responsive to the instant request. This ruling does not address the public availability of non-responsive information, nor is the city required to release non-responsive information to this requestor.

Next, we note you have redacted portions of the responsive submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold

¹You state the city sought and received clarification of the request for information. *See* Gov’t Code §552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code § 552.301(a), (e)(1)(D). We understand you to have redacted license plate numbers pursuant to section 552.130(c) of the Government Code.² However, you do not assert, nor does our review of our records indicate, the city has been authorized to withhold the street names you have redacted without seeking a ruling from this office. *Id.* § 552.301(a); Open Records Decision No. 673 (2000). As such, this 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, we can discern the nature of the remaining redacted information. In the future, however, the city should refrain from redacting any information it is not authorized to withhold in seeking an open records ruling. Failure to do so may result in the presumption the redacted information is public. *See* Gov't Code § 552.302.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses section 730.004 of the Transportation Code, which 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 the 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 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). We understand the city contracts with a third party, Redflex Traffic Systems (“Redflex”), to operate red light cameras. Redflex uses these cameras to obtain the license plate numbers of vehicles that proceed through intersections against a red light. We understand Redflex uses the license plate numbers of Texas registered vehicles to obtain a name and address for the license plate number from the Texas Department of Public Safety (“DPS”). We note DPS is an agency under section 730.003(1) that obtains or compiles

²Section 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).

motor vehicle records. *See id.* § 730.003(1). We further note the names and addresses of the owners of Texas registered vehicles obtained by Redflex from DPS 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, by obtaining information from DPS to assist the city's police department (the "department") in carrying out its functions, Redflex is an authorized recipient of personal information for purposes of section 730.013. *See id.* § 730.007(a)(2)(A)(ii) (authorized recipient includes a private entity acting on behalf of a government agency in carrying out the agency's functions).

Based upon your representations and our review of the information at issue, we conclude, because the personal information of owners of Texas registered vehicles was obtained from DPS by an authorized recipient, and because this information is in the identical or substantially identical format that it was received by Redflex from DPS, the personal information, including the names and addresses, 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 release of this information would be for a use permitted under section 730.007, we conclude the city must withhold the addresses, other than zip codes, of owners of Texas registered vehicles in the responsive information under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code.

To the extent the responsive information relates to individuals whose vehicles are registered in states other than Texas, we address 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). We note some of the remaining responsive information consists of the addresses of owners of vehicles registered in states other than Texas and 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). We understand Redflex uses the license plate numbers obtained from the red light cameras to procure personal information from other states' DPS equivalent. We conclude Redflex, in obtaining personal information from other state agencies to assist the department 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 city must withhold the addresses, other than zip codes, of owners of vehicles registered in states other than Texas in the remaining responsive information under section 552.101 of the Government Code in conjunction with section 2721(c) of title 18 of the United States Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the city must withhold the motor vehicle record information we have indicated under section 552.130 of the Government Code.

In summary, the city must withhold (1) the addresses, other than zip codes, of owners of Texas registered vehicles in the responsive information under section 552.101 of the Government Code in conjunction with section 730.013 of the Transportation Code, (2) the addresses, other than zip codes, of owners of vehicles registered in states other than Texas in the responsive information under section 552.101 of the Government Code in conjunction

with section 2721(c) of title 18 of the United States Code, and (3) the motor vehicle record information we have indicated under section 552.130 of the Government Code. The city 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/bhf

Ref: ID# 587662

Enc. Submitted documents

c: Requestor
(w/o enclosures)