



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2016

Ms. Stacie S. White
Counsel for Town of Flower Mound
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2016-17585

Dear Ms. White:

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# 621178.

The Town of Flower Mound (the "town"), which you represent, received a request for information concerning a specified offense. You state the town will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we must address the town's responsibilities under the Act. Sections 552.301 and 552.308 of the Government Code prescribe the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). This requirement is met when the request for a decision is sent by United States mail properly addressed with postage prepaid and bearing a postmark indicating it was sent within the ten business-day deadline. *See id.* § 552.308. The envelope in which you requested a ruling does not bear a postmark indicating the date it was sent. Accordingly, we are unable to determine the town's

ruling was requested within the required deadline and must conclude the town failed to meet the procedural deadline under section 552.301(b) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Section 552.108 of the Government Code does not make information confidential. *See Gov't Code* § 552.007; Open Records Decision Nos. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Accordingly, the town may not withhold the submitted information under section 552.108 of the Government Code. However, some of the information is subject to section 552.130 of the Government Code, which makes information confidential.¹ Accordingly, we will address the applicability of section 552.130 of the Government Code.

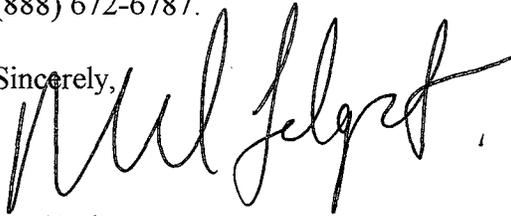
Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state or another state or country. *Gov't Code* § 552.130(a)(2). Some of the submitted photographs depict a motor vehicle's license plate and registration sticker. The purpose of section 552.130 is to protect personal privacy, and the requestor might be the authorized representative of the motor vehicle's owner. *See Gov't Code* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). If the town determines the requestor is the motor vehicle owner's authorized representative, the town may not withhold any portion of the photographs under section 552.130 of the Government Code and must release the submitted photographs in their entirety. If the town determines the requestor is not the motor vehicle owner's authorized representative, it must withhold the discernable license plate and registration sticker under section 552.130 of the Government Code and release the remaining portions of the photographs.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is fluid and cursive, with a large initial "N" and "F".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 621178

Enc. Submitted documents

c: Requestor
(w/o enclosures)