



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 28, 2020

Ms. Alicia K. Kreh
Counsel for the City of Southlake
Taylor, Olson, Adkins, Sralla, Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2020-06476

Dear Ms. Kreh:

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# 814299 (Ref. No. W002011-120319).

The City of Southlake (the "city"), which you represent, received a request for a specified report. You claim the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2008-11343 (2008). In that ruling, we determined the city must withhold certain information under section 552.130 of the Government Code and must release the remaining information. 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 such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* 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). Accordingly, pursuant to section 552.007, the city may not withhold previously released information unless its release is expressly prohibited by law or the information is confidential by law. Although the city seeks to withhold the information at issue under section 552.107, this section is discretionary exception to disclosure and does not prohibit the release of information or make information confidential under the Act. *See* Open Records Decision

Nos. 676 at 10-11 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Accordingly, the city may not now withhold the information that was previously released in Open Records Letter No. 2008-11343 under section 552.107 of the Government Code. We also note circumstances have changed with respect to the applicability of section 552.130 of the Government Code to the motor vehicle record information we marked. Accordingly, the city may not rely on Open Records Letter No. 2008-11343 with respect to the motor vehicle record information we marked. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2008-11343 was based have changed with respect to the remaining information at issue. Therefore, with the exception of the motor vehicle record information we marked, the city must continue to rely on Open Records Letter No. 2008-11343 as a previous determination and release any identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Additionally, because section 552.130 makes information confidential, we will address the applicability of section 552.130 to the motor vehicle record information we marked.¹

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the city must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, with the exception of the motor vehicle record information marked, the city must continue to rely on Open Records Letter No. 2008-11343 as a previous determination and release any identical information in accordance with that ruling. The city must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

¹ The 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).

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Taylor", with a stylized flourish at the end.

Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/be

Ref: ID# 814299

Enc. Submitted documents

c: Requestor
(w/o enclosures)