

NICHOLS, JACKSON, DILLARD, HAGER & SMITH, L.L.P

Alexis G. Allen
E-mail: aallen@njdhs.com

Attorneys & Counselors at Law
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201
(214) 965-9900
Fax (214) 965-0010
E-mail NJDHS@NJDHS.com

ROBERT L. DILLARD, JR. (1913-2000)
H. LOUIS NICHOLS (1916-2010)

LAWRENCE W. JACKSON
OF COUNSEL

May 9, 2011

By Certified Mail
RRR No. 7001 1140 0000 4704 4526
Open Records Division
Office of the Attorney General
State of Texas
P.O. Box 12548
Austin, Texas 78701

**Re: Public Information Request Received April 15, 2011, by the City of
Duncanville, from Aren Cambre, and clarified on May 5, 2011**

Dear Open Records Division:

As the City Attorneys for the City of Duncanville ("City"), we are writing to request an opinion on the above referenced public information request, pursuant to Section 552.101 of the Texas Government Code. The City received the request from Aren Cambre ("Requestor") on April 15, 2011, *see Exhibit A*. On April 22, 2011 the City sent Mr. Cambre a request for clarification, *see Exhibit B*, to which he responded on May 5, 2011, *see Exhibit C*. Please note that the requestor had submitted a prior request, for which the City had requested an opinion from your office, *see Exhibit D*. However, the earlier request was deemed withdrawn because the requestor failed to respond to the City's cost estimate within 30 days, *see Exhibit E*.

The requestor has asked for "all data of automated red light camera violations." The requested information is maintained for the City by RedFlex, an outside company with which the City has contracted to provide automated red light services. RedFlex maintains and compiles information collected through the automated red light program. The City reviews images captured by RedFlex for the purpose of approving or disapproving citations. RedFlex then uses information provided by NLETS to issue citations for those offenses approved by the City. Through its arrangement with RedFlex the City has a password which allows it to electronically access the videos and information compiled by RedFlex. Based on the requestor's clarification, he is requesting information that is compiled by RedFlex based on the images captured by the cameras, as well as personal identifying information collected by RedFlex from NLETS. Upon further inquiry to RedFlex the City has determined that responding to the request will require programming or manipulation of data and the information can be made available in the requested form only at a cost that covers the programming and manipulation of data. The City has submitted a detailed cost estimate to the Requestor. Additionally, RedFlex has estimated that the

requested information will contain tens of thousands of lines of data. Because the responsive report is voluminous, the City is providing a representative sample of the report containing each of the categories of information requested. A true and correct copy of a representative sample of the responsive report is attached hereto and incorporated herein as *Exhibit F*.

As noted, the City of Duncanville contracts with RedFlex, which provides services related to the City's red-light cameras, and RedFlex maintains the information gathered as part of this program. RedFlex may have a proprietary interest in the requested information. Therefore, pursuant to Section 552.305 the City has withheld the requested information and notified RedFlex of this request so that RedFlex may submit reasons why the information may be withheld, *see Exhibit G*. The City has also attached RedFlex's response to the requestor's prior request for your office's consideration, *see Exhibit H*.

Additionally, the City asserts that the license plate numbers of vehicles captured by the red light cameras must be withheld. A sample of this information has been highlighted on *Exhibit F*. It is the City's position that the license plate numbers are exempt from disclosure pursuant to Section 552.130. Section 552.130(a)(2) excepts information relating to "...a motor vehicle title or registration issued by an agency of this state" from public disclosure. Examples of information excepted from disclosure pursuant to this section are vehicle identification numbers and license plate numbers. Open Records Letter Nos. 2000-4847 (2000), 2000-1083 (2000). The requestor has stated that the information will be used for statistical analysis, will not be redisclosed, and will not be used to contact persons, and therefore the City is permitted to disclose the information pursuant to Chapter 730 of the Transportation Code. Section 730.007(a)(2)(F) provides that personal information may be released if the information is to be used "in research or in producing statistical reports, but only if the personal information is not published, redisclosed, or used to contact any individual." However, the only personal information that is subject to permitted disclosure under this section is the name and address, date of birth and driver's license number. § 730.007(b). It is the City's position that license plate numbers are not included among the information that may be disclosed under this section, and therefore the license plate numbers must be withheld.

The City believes that portions of the requested information are exempt from disclosure pursuant to Tex. Govt. Code §552.130 and 552.305. Therefore, the City intends to withhold the responsive information pending an opinion from your office as to whether or not such information is exempt. Pursuant to Tex. Govt. Code §552.301(a), this letter constitutes our client's request for said opinion.

Please contact the undersigned if you have questions regarding this matter.

Sincerely,

NICHOLS, JACKSON, DILLARD,
HAGER & SMITH, L.L.P.

By: Alexis G. Allen
Alexis G. Allen

Enclosures

cc: Aren Cambre (*by email and first-class mail*)
Southern Methodist University
PO Box 750262
Dallas, TX 75275-0262

Dara Crabtree (*by email*)
City Secretary, City of Duncanville, Texas