



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 24, 2015

Ms. Sarah Parker
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2015-07893

Dear Ms. Parker:

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# 561122

The Texas Department of Transportation (the "department") received a request for six categories of information pertaining to the Specific Information Logo Signs, Major Shopping Area Signs, and Tourist Oriented Directional Signs programs, including all remittances paid to a specified entity. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Lone Star Logos and Signs ("Lone Star"). Accordingly, you state, and provide documentation showing, you notified Lone Star of the request for information and of its right to submit arguments to this office as to why the its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, you inform us some of the requested information is the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2015-03197 (2015). In that ruling, we determined the department must rely on Open Records Letter No. 2014-12893 (2014) as a previous determination and continue to release the information at issue in accordance with that ruling. In addition, we ruled the department must generally withhold the information we marked under section 552.110(b) of the Government Code; however, the department must release the marked customer information to the extent it was not published on certain entities' websites. We have no indication the law, facts, or

circumstances on which the prior ruling was based have changed. Thus, the department must rely on Open Records Letter 2015-03197 as a previous determination, and withhold or release the information at issue 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).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Lone Star explaining why the submitted information should not be released. Therefore, we have no basis to conclude Lone Star has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the department may not withhold the submitted information on the basis of any proprietary interests Lone Star may have in the information. As no exceptions to disclosure have been raised for the submitted information, it must be released at this time.

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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 561122

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Matt Johnson
President
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(w/o enclosures)