



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 2, 2016

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

The ruling you have requested has been amended as a result of litigation and has been attached to this document.

OR2016-19913

Dear Mr. Kopp:

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# 623182 (COSA File Nos. W123234 and W124328).

The City of San Antonio (the "city") received two requests from different requestors for information pertaining to transportation network companies and independent driver contractors during a specified time period; service fees at the San Antonio International Airport during a specified time period; and e-mails between city employees or city council members and Bid My Ride, Get Me, Lyft, Inc. ("Lyft"), and Uber Technologies, Inc. ("Uber").¹ You state the city released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this

¹We note the city asked for and received clarification regarding one of these requests. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

information may implicate the proprietary interests of third parties.² Accordingly, you state, and provide documentation showing, you notified Bid My Ride, Get Me, Lyft, and Uber of the request for information and of their right to submit arguments to this office as to why the submitted 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 received comments from Lyft and Rasier LLC, a wholly owned subsidiary of Uber, on behalf of Uber. We have considered the submitted arguments and reviewed the submitted representative sample of information.³

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant requests because it pertains to information that is outside of the requested date range. This ruling does not address the public availability of any information that is not responsive to the requests and the city is not required to release such information in response to this request.

Next, we note 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 Bid My Ride or Get Me explaining why their information should not be released. Therefore, we have no basis to conclude Bid My Ride or Get Me has protected proprietary interests in the submitted responsive 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, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold any of the information at issue on the basis of any proprietary interest Bid My Ride or Get Me may have in it.

²We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See Gov't Code § 552.301(e)*. Nonetheless, because third party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third party interests. *See id.* §§ 552.001, .302, .352. The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Sections 552.101 and 552.117 of the Government Code are mandatory exceptions that make information confidential and can provide compelling reasons to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See Gov't Code §§ 552.007, .301, .302, .352*. Accordingly, we will consider the applicability of these sections to the submitted information.

³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Next, we note Lyft and Uber argue against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the city has submitted to us for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the city submitted as responsive to the requests for information.

We understand Lyft to assert that some of its submitted information is confidential because it was given to the city in confidence or it is confidential pursuant to a contract with the city. We note that information is not confidential under the Act simply because the party that submits the information anticipates or requests that it be kept confidential. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot overrule or repeal provisions of the Act through an agreement or contract. *See* Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 541 at 3 (1990) (“[T]he obligations of a governmental body under [the Act] cannot be compromised simply by its decision to enter into a contract.”), 203 at 1 (1978) (mere expectation of confidentiality by person supplying information does not satisfy requirements of statutory predecessor to section 552.110). Consequently, unless the information at issue falls within an exception to disclosure, it must be released, notwithstanding any expectation or agreement to the contrary.

Section 552.104(a) of the Government Code excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Id.* at 841. Lyft and Uber state they have competitors. In addition, Lyft states release of some of its information would provide competitors with insight into Lyft’s current market share in the city, the efficacy of its marketing and promotional policies, and Lyft’s driver acquisition strategy. Uber states release of some of its information would allow its competitors to lure driver partners from Uber, to measure and assess the size of Uber’s market share, and undermine one of Uber’s key competitive advantages in the marketplace. After review of the information at issue and consideration of the arguments, we find Lyft and Uber have established the release of the information at issue, which we have marked, would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the information we have marked under section 552.104(a) of the Government Code.⁴

⁴As our ruling on this information is dispositive, we need not address the remaining arguments against its disclosure.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”⁵ Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 552.101 encompasses section 1304(b) of title 8 of the United States Code, which addresses the confidentiality of the registration documentation of aliens under section 1301 of the United States Code. Section 1304(b) provides, “All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only (1) pursuant to section 1357(f)(2) of this title, and (2) to such persons or agencies as may be designated by the Attorney General.” 8 U.S.C. § 1304(b). Section 264.1(b) of title 8 of the Code of Federal Regulations lists permanent resident cards as documents that constitute evidence of registration. 8 C.F.R. § 264.1(b). Therefore, we find the information we marked consists of registration records subject to the confidentiality provision of section 1304(b) of title 8 of the United States Code. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code.⁶

Section 552.101 of the Government Code also encompasses the Medical Practice Act (“MPA”), subtitle B of title 3 of the Occupations Code, which governs release of medical records. Occ. Code §§ 151.001-168.202. Section 159.002 of the MPA provides:

- (a) A communication between a physician and a patient, relative to or in connection with any professional services as a physician to the patient, is confidential and privileged and may not be disclosed except as provided by this chapter.
- (b) A record of the identity, diagnosis, evaluation, or treatment of a patient by a physician that is created or maintained by a physician is confidential and privileged and may not be disclosed except as provided by this chapter.
- (c) A person who receives information from a confidential communication or record as described by this chapter, other than a person listed in Section 159.004 who is acting on the patient’s behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was first obtained.

Id. § 159.002. Information that is subject to the MPA includes both medical records and information obtained from those medical records. *See id.* §§ 159.002, .004. The information we have marked consists of a medical record subject to the MPA. The city must withhold

⁵The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁶As our ruling is dispositive, we do not address the arguments against disclosure of this information.

the information we have marked under section 552.101 of the Government Code in conjunction with section 159.002 of the Occupations Code.

Section 552.101 of the Government Code also 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. Section 730.004 applies only to an “agency” that compiles or maintains motor vehicle records. *See id.* § 730.003(1). Uber has not established the city is an agency for purposes of chapter 730 that compiles or maintains motor vehicle records; therefore, section 730.004 does not apply to the city and the city may not withhold any of the remaining information at issue under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *See id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Additionally, under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Indus. Found.*, 540 S.W.2d at 682. In considering whether a public citizen’s date of birth is private, the Third Court of Appeals looked to the supreme court’s rationale in *Texas Comptroller of Public Accounts v. Attorney General of Texas*, 354 S.W.3d 336 (Tex. 2010). *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). The supreme court concluded public employees’ dates of birth are private under section 552.102 of the Government Code because the employees’ privacy interest substantially outweighed the negligible public interest in disclosure.⁷ *Texas Comptroller*, 354 S.W.3d at 347-48. Based on *Texas Comptroller*, the court of appeals concluded the privacy rights of public employees apply equally to public citizens, and thus, public citizens’ dates of birth are also protected by common-law privacy pursuant to section 552.101. *City of Dallas*, 2015 WL 3394061, at *3. However, this office has determined the names, addresses, and telephone numbers of members of the public are generally not excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 554 at 3 (1990) (disclosure of person’s name, address, or telephone number not invasion of privacy). Upon review, we find the information we

⁷Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a).

marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. Further, the city must withhold all public citizens' dates of birth in the remaining responsive information under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find none of the remaining information is highly intimate or embarrassing information and of no legitimate public interest, and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Next, Lyft claims some of its remaining information is excepted under section 552.110 of the Government Code, which protects (1) trade secrets, and (2) commercial or financial information, the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. See Gov't Code § 552.110(a), (b). Section 552.110(a) protects trade secrets obtained from a person and privileged or confidential by statute or judicial decision. *Id.* § 552.110(a). The Texas Supreme Court has adopted the definition of trade secret from section 757 of the Restatement of Torts. See *Hyde Corp. v. Huffines*, 314 S.W.2d 763 (Tex. 1957); see also ORD 552. Section 757 provides that a trade secret is

any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business . . . in that it is not simply information as to single or ephemeral events in the conduct of the business A trade secret is a process or device for continuous use in the operation of the business [It may] relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

RESTATEMENT OF TORTS § 757 cmt. b (1939); see also *Huffines*, 314 S.W.2d at 776. In determining whether particular information constitutes a trade secret, this office considers the Restatement's definition of trade secret as well as the Restatement's list of six trade secret factors.⁸ RESTATEMENT OF TORTS § 757 cmt. b (1939). This office must accept a

⁸The Restatement of Torts lists the following six factors as indicia of whether information constitutes a trade secret:

- (1) the extent to which the information is known outside of [the company];
- (2) the extent to which it is known by employees and other involved in [the company's]

claim that information subject to the Act is excepted as a trade secret if a *prima facie* case for the exception is made and no argument is submitted that rebuts the claim as a matter of law. *See* ORD 552 at 5. However, we cannot conclude that section 552.110(a) is applicable unless it has been shown that the information meets the definition of a trade secret and the necessary factors have been demonstrated to establish a trade secret claim. *See* Open Records Decision No. 402 (1983).

Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6 (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm).

Having considered Lyft’s arguments under section 552.110(a), we determine Lyft has failed to demonstrate any portion of its information at issue meets the definition of a trade secret, nor has it demonstrated the necessary factors to establish a trade secret claim for this information. Accordingly, the city may not withhold any of Lyft’s remaining information at issue on the basis of section 552.110(a) of the Government Code.

Upon review of Lyft’s arguments and the information at issue, we find Lyft has not demonstrated the release of the remaining information at issue would result in substantial harm to its competitive position. *See* Open Records Decision Nos. 509 at 5 (1988) (because costs, bid specifications, and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts is too speculative), 319 at 3. Therefore, none of Lyft’s information at issue may be withheld under section 552.110(b).

Some of the submitted information may be subject to section 552.117 of the Government Code. Section 552.117(a)(1) excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member

business;

(3) the extent of measures taken by [the company] to guard the secrecy of the information;

(4) the value of the information to [the company] and [its] competitors;

(5) the amount of effort or money expended by [the company] in developing the information;

(6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

RESTATEMENT OF TORTS § 757 cmt. b (1939); *see also* Open Records Decision Nos. 319 at 2 (1982), 306 at 2 (1982), 255 at 2 (1980).

information of current or former employees or officials of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). Section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. Therefore, to the extent the individual whose information we have marked timely requested confidentiality under section 552.024 of the Government Code, the city must withhold the information we marked under section 552.117(a)(1) of the Government Code; however, the city may only withhold the cellular telephone number at issue if the service is not paid for by a governmental body. Conversely, to the extent the individual at issue did not timely request confidentiality under section 552.024, the city may not withhold the marked information under section 552.117(a)(1).

Lyft and Uber raise section 552.130 of the Government Code for some of the remaining responsive information. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license or driver's license, a 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(a)(1)-(2). Upon review, we find the city must withhold the information we have marked under section 552.130 of the Government Code. However, we find none of the remaining responsive information consists of motor vehicle record information subject to section 552.130. Accordingly, none of the remaining responsive information may be withheld under section 552.130 of the Government Code.

Lyft raises section 552.131 of the Government Code. Section 552.131 provides, in part, the following:

(a) Information is excepted from [required public disclosure] if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

(1) a trade secret of the business prospect; or

(2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.

Id. § 552.131(a)-(b). Section 552.131(a) excepts from disclosure only “trade secret[s] of [a] business prospect” and “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.” *Id.* This aspect of section 552.131 is co-extensive with section 552.110 of the Government Code. *See id.* § 552.110(a)-(b). As previously stated, Lyft has failed to demonstrate any portion of its remaining information at issue meets the definition of a trade secret, and Lyft has provided no specific factual or evidentiary showing release of the information at issue would cause the company substantial competitive injury. Consequently, we conclude the city may not withhold any portion of Lyft’s remaining information under section 552.131(a). Section 552.131(b) is designed to protect the interests of governmental bodies, not third parties. As the city does not assert section 552.131(b) as an exception to disclosure, we conclude no portion of the remaining information at issue is excepted under section 552.131(b) of the Government Code. Accordingly, the city may not withhold any of the remaining information at issue under section 552.131 of the Government Code.

Lyft raises section 552.136 of the Government Code for some of its remaining information. Section 552.136 of the Government Code states “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136; *see also id.* § 552.136(a) (defining “access device”). Upon review, the city must withhold the information we marked under section 552.136 of the Government Code. Upon review, we find none of the remaining information at issue is subject to section 552.136, and it may not be withheld on that basis.

Lyft and Uber raise section 552.137 of the Government Code for some of the remaining responsive information. Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental

body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). Upon review, we find the city must withhold the e-mail addresses in the remaining responsive information under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure or subsection (c) applies.

Lyft and Uber raise section 552.147 of the Government Code for some of the remaining responsive information. Section 552.147 provides “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). The city may withhold the social security numbers of the living individuals in the remaining responsive information under section 552.147 of the Government Code.

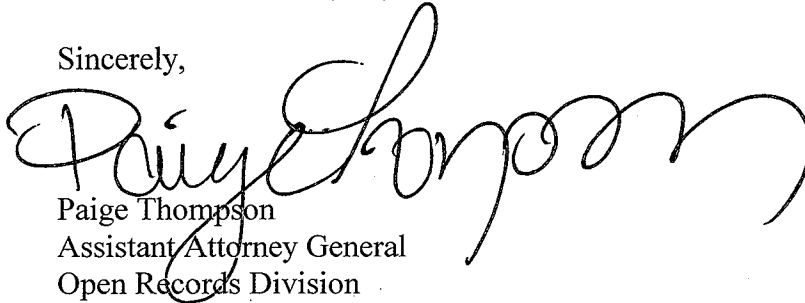
We note some of the remaining responsive information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the city may withhold the information we have marked under section 552.104(a) of the Government Code. The city must withhold (1) the information we marked under section 552.101 of the Government Code in conjunction with section 1304(b) of title 8 of the United States Code; (2) the information we marked under section 552.101 of the Government Code in conjunction with section 159.002 of the Occupations Code; (3) the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy; (4) all public citizens’ dates of birth in the remaining responsive information under section 552.101 of the Government Code in conjunction with common-law privacy; (5) the marked cellular telephone number under section 552.117(a)(1) if the individual at issue timely requested confidentiality under section 552.024 of the Government Code and the service is not paid for by a governmental body; (6) the information we marked under section 552.130 of the Government Code; (7) the information we marked under section 552.136 of the Government Code; and (8) the e-mail addresses in the remaining responsive information under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure or subsection (c) applies. The city may withhold the social security numbers of the living individuals in the remaining responsive information under section 552.147 of the Government Code. The remaining responsive information must be released; however, any information protected by copyright may only be released in accordance with copyright law.

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 "Paige Thompson". The signature is written in a cursive style with a large, sweeping flourish at the end.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/akg

Ref: ID# 623182

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)

4 Third Parties
(w/o enclosures)

APR 17 2019

At 2:03 p M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GN-16-004946

LYFT, INC.,	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	TRAVIS COUNTY, TEXAS
KEN PAXTON, ATTORNEY GENERAL	§	
OF TEXAS, and the CITY OF SAN	§	
ANTONIO,	§	
<i>Defendants.</i>	§	353rd JUDICIAL DISTRICT

AGREED FINAL JUDGMENT

This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552, in which Lyft, Inc. ("Lyft"), sought to withhold certain information which is in the possession of the City of San Antonio ("the City") from public disclosure. All matters in controversy between Plaintiff, Lyft, and Defendants, Ken Paxton, Attorney General of Texas ("Attorney General"), and the City arising out of this lawsuit have been resolved by a Settlement Agreement, a copy of which is attached hereto as Exhibit "A", and the parties agree to the entry and filing of this Agreed Final Judgment.

The Attorney General represents to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the Attorney General sent certified letters to the requestors, Ms. Kristen Mosbrucker, Mr. Robert Gonzalez, and Ms. Katherine Blunt, on Feb. 19, 2018, informing them of the setting of this matter on the uncontested docket on this date. The requestors were informed of the parties' agreement that the City will withhold the designated portions of the information at issue. The requestors were also informed of their right to intervene in the suit to contest the withholding of this information. Verification of the certified mailing of these letters is attached to this judgment as Exhibit "B." None of the requestors have filed motions to intervene. After considering the agreement of the parties and the law, the Court is of the



opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:

1. Lyft, the Attorney General, and the City have agreed that in accordance with the PIA and under the facts presented, portions of the information at issue shall be redacted before the information is released. The additional redactions include two columns on page one of the documents at issue and pages two-four of the documents at issue in their entirety. The additional redactions are excepted from disclosure pursuant to Texas Government Code section 552.104 and Texas Government Code section 552.101 in conjunction with Texas Occupation Code § 2402.152(a). These redactions will be in addition to the redactions required by Open Records Letter ruling OR2016-19913.
2. Attorney General Letter Ruling OR2016-19913 shall not be relied on as a previous determination.
3. All court costs and attorney fees are taxed against the parties incurring the same;
4. All relief not expressly granted is denied; and
5. This Agreed Final Judgment finally disposes of all claims that are the subject of this lawsuit between Lyft, the Attorney General, and the City of San Antonio and is a final judgment.

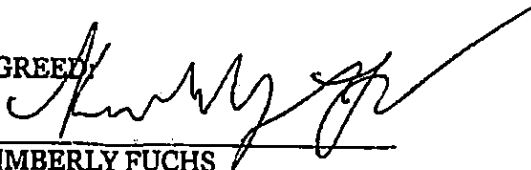
SIGNED the 17 day of April, 2018¹⁹.




PRESIDING JUDGE

Dustin M. Howell


AGREED


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ATTORNEY FOR DEFENDANT, CITY OF SAN ANTONIO

A

CAUSE NO. D-1-GN-16-004946

LYFT, INC.,	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	TRAVIS COUNTY, TEXAS
KEN PAXTON, ATTORNEY GENERAL	§	
OF TEXAS, and the CITY OF SAN	§	
ANTONIO,	§	
<i>Defendants.</i>	§	353rd JUDICIAL DISTRICT

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is made by and between Lyft, Inc. ("Lyft"), Ken Paxton, Attorney General of Texas ("the Attorney General"), and the City of San Antonio ("the City"). This Agreement is made on the terms set forth below.

Background

This case is a challenge to Open Records Letter ruling OR2016-19913. Lyft disputed the ruling as it applies to Lyft's information, and filed the above-styled lawsuit to preserve its rights under the Public Information Act ("PIA").

Lyft submitted information and briefing to the Attorney General establishing that some additional information is excepted from disclosure under Texas Government Code section 552.104 and Texas Government Code section 552.101 in conjunction with Texas Occupation Code § 2402.152(a). The City and the Attorney General agree to the settlement.

Texas Government Code section 552.325(c) allows the Attorney General to enter into a settlement pursuant to which the information at issue in this lawsuit may be withheld. The parties wish to resolve this matter without further litigation.

Terms

For good and sufficient consideration, the receipt of which is acknowledged, the parties to this Agreement agree and stipulate that:

1. Lyft, the Attorney General, and the City have agreed that in accordance with the PIA and under the facts presented, portions of the information at issue shall be redacted before the information is released. The additional redactions include two columns on page one of the documents at issue and pages two-four of the documents at issue in their entirety. The additional redactions are excepted from disclosure pursuant to Texas Government Code section 552.104 and Texas Government Code section 552.101 in conjunction with Texas Occupation Code § 2402.152(a). These redactions will be in addition to the redactions required by Open Records Letter ruling OR2016-19913.
2. Lyft, the City, and the Attorney General agree to the entry of an agreed final judgment, the form of which has been approved by each party's attorney. The agreed final judgment will be presented to the court for approval, on the uncontested docket, with at least 15 days prior notice to the requestors.
3. The Attorney General agrees that he will also notify the requestors, as required by Tex. Gov't Code § 552.325(c), of the proposed settlement and of their rights to intervene to contest Lyft's right to have the City withhold the information.
4. A final judgment entered in this lawsuit after a requestor intervenes prevails over this Agreement to the extent of any conflict.
5. Each party to this Agreement will bear their own costs, including attorney fees relating to this litigation.
6. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise

disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement.

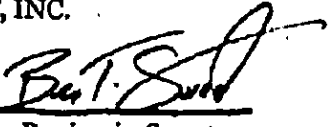
7. Lyft warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that Lyft has against the Attorney General and/or the City arising out of the matters described in this Agreement.

8. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the Attorney General has against Lyft and/or the City arising out of the matters described in this Agreement.

9. The City warrants that its undersigned representative is duly authorized to execute this Agreement on behalf of the City and its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the City has against Lyft and/or the Attorney General arising out of the matters described in this Agreement.


10. This Agreement shall become effective, and be deemed to have been executed, on the date on which the last of the undersigned parties sign this Agreement.

LYFT, INC.

By: 
name: Benjamin Sweet
firm: Baker Botts L.L.P.

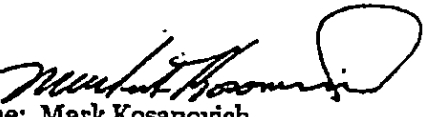
Date:

KEN PAXTON, ATTORNEY GENERAL
OF TEXAS

By: 
name: Kimberly Fuchs
title: Assistant Attorney General,
Administrative Law Division

Date: Feb 15, 2019

CITY OF SAN ANTONIO

By: 
name: Mark Kosanovich
firm: Fitzpatrick & Kosanovich

Date: Feb. 13, 2019