



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2017

Ms. Helen Johnson
Paralegal
North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026

OR2017-13393

Dear Ms. Johnson:

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# 662278 (NTTA# 2017-00867).

The North Texas Tollway Authority (the "authority") received a request for information related to specified vehicles during a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information other statutes make confidential. The authority is governed by the Texas Regional Tollway Authority Act, chapter 366 of the Transportation Code. Section 366.178(b-1) of the Transportation Code provides the following:

¹We note the authority did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date or provide toll exemptions. Information collected under this subsection, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under [the Act].

Transp. Code § 366.178(b-1). You inform us the authority permits individuals to pay a higher toll rate at a later date through the ZipCash invoicing system as an alternative to payment of a toll at the time a vehicle is driven on authority's tollway. The authority states Exhibit B-2 was collected by the authority pursuant to this subsection "to identify the registered owner of the nonpaying vehicle and issue the ZipCash invoice or provide toll exemptions[.]" Based on these representations and our review, we find the authority must withhold Exhibit B-2 under section 552.101 of the Government Code in conjunction with section 366.178(b-1) of the Transportation Code.

Section 552.101 of the Government Code also encompasses section 366.179 of the Transportation Code, which provides, in relevant part, the following:

(a) For purposes of this section, a transponder is a device placed on or within a motor vehicle that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

...

(d) Transponder account information, including contact and payment information and trip data, is confidential and not subject to disclosure under [the Act].

Transp. Code § 366.179(a),(d). You inform us that, in connection with the operation of its toll projects, the authority issues transponders or "TollTags" to authority customers wishing to establish an account with the authority. You state Exhibit B-1 consists of TollTag customer account information that is compiled by the authority. Based on these representations, we agree the authority must withhold Exhibit B-1 under section 552.101 of the Government Code in conjunction with section 366.179(d) of the Transportation Code.

In summary, the authority must withhold Exhibit B-2 under section 552.101 of the Government Code in conjunction with section 366.178(b-1) of the Transportation Code. The authority must withhold Exhibit B-1 under section 552.101 of the Government Code in conjunction with section 366.179(d) of the Transportation 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 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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/tdw

Ref: ID# 662278

Enc. Submitted documents

c: Requestor
(w/o enclosures)