



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 3, 2017

Mr. Neal Falgoust
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

OR2017-14806

Dear Mr. Falgoust:

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# 663042 (PIR# 33414).

The City of Austin (the "city") received a request for all accessibility plans for transportation network companies operating in the city. You state you will release some information. Although you take no position as to whether the submitted information is excepted under the Act, we understand the release of this information may implicate the proprietary interests of the following third parties: Fasten, RideAustin, Tride, Wingz, zTrip, RideFare, and GetMe. We understand you notified the interested third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue 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 GetMe. We have considered the submitted argument 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."¹ Gov't

¹The 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).

Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 2402.152 of the Occupations Code. Section 2402.152 provides, in relevant part:

(a) Any records, data, or other information disclosed to a public entity in this state, including the [Texas Department of Licensing and Regulation (the “department”)], by a transportation network company, including names, addresses, and any other personally identifiable information of drivers is not subject to disclosure under Chapter 552, Government Code.

(b) A public entity, including the department, may not disclose any records, data, or other information provided by a transportation network company under this chapter to a third party except in compliance with a court order or subpoena. If information provided under this chapter is sought through a court order or subpoena, the public entity shall promptly notify the transportation network company to afford the company the opportunity to take actions to prevent disclosure.

See Act of May 18, 2017, 85th Leg., R.S., H.B. 100 § 1 (to be codified at Occ. Code § 2402.152(a)-(b)). Section 2402.001(5) defines a “transportation network company” as

a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity’s digital network, a digitally prearranged ride. The term does not include an entity that provides:

(A) street-hail taxicab services;

(B) limousine or other car services arranged by a method other than through a digital network;

(C) shared expense carpool or vanpool arrangements; or

(D) a type of ride service for which:

(i) the fee received by the driver does not exceed the driver’s costs of providing the ride; or

(ii) the driver receives a fee that exceeds the driver’s costs associated with providing the ride but makes not more than three round-trips per day between the driver’s or passenger’s place of employment and the driver’s or passenger’s home.

See Act of May 18, 2017, 85th Leg., R.S., H.B. 100 § 1 (to be codified at Occ. Code § 2402.001(5)). The submitted information consists of accessibility plans of transportation

network companies operating in the city. Upon review, we find the submitted information consists of records, data, or other information disclosed to a public entity, the city, by transportation network companies. Accordingly, we find the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 2402.152(a) of the Occupations Code.²

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,



Jahanna Ward
Attorney
Open Records Division

JW/som

Ref: ID# 663042

Enc. Submitted documents

c: Requestor
(w/o enclosures)

7 Third Parties
(w/o enclosures)

²As our ruling is dispositive, we need not address GetMe's arguments against disclosure of this information.