



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 2, 2017

Mr. Thomas Bailey
Legal Services
VIA Metropolitan Transit
123 North Medina Street
San Antonio, Texas 78207

OR2017-17338

Dear Mr. Bailey:

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# 669003.

VIA Metropolitan Transit ("VIA") received a request for certain information pertaining to a named entity during a defined time period.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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 protected by other statutes, such as section 321.3022 of the Tax Code, which provides, in part:

(a-1) Except as otherwise provided by this section, the [Texas Comptroller of Public Accounts (the "comptroller")] on request shall provide to a municipality or other local governmental entity that has adopted a tax under [chapter 321 of the Tax Code]:

¹You inform us, and provide documentation showing, VIA received clarification of the request for information. See Gov't Code § 552.222(b) (stating governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

- (1) information relating to the amount of tax paid to the municipality or other local governmental entity under [chapter 321 of the Tax Code] during the preceding or current calendar year by each person doing business in the municipality or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than \$5,000; and
- (2) any other information as provided by this section.

...

(f) Information received by a municipality or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the municipality or other local governmental entity under [chapter 321 of the Tax Code], or for the purpose described in Subsection (g).

(g) Information received by a municipality or other local governmental entity under Subsection (b) may be used by the municipality or other local governmental entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

Tax Code § 321.3022(a-1), (f)-(g). You assert the information at issue contains sales tax information received from the comptroller pursuant to section 321.3022(a-1). Upon review, we determine VIA has failed to demonstrate the submitted information was received from the comptroller by a municipality or other local governmental entity. *See id.* § 321.022(a) (“other local governmental entity” has meaning assigned by Tax Code § 321.107), (g); *see also id.* § 321.107 (“other local governmental entity” does not include metropolitan transportation authority). Consequently, VIA may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 321.3022(f) of the Tax Code.

We note portions of the submitted information are subject to section 552.136 of the Government Code.² 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(b); *see also id.* § 552.136(a) (defining “access device”). Accordingly, VIA must withhold the bank account and bank routing numbers within the submitted

²The 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).

information under section 552.136 of the Government Code. As no other exceptions have been raised, VIA must release the remaining information.

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 cursive script, appearing to read "Cole Hutchison".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

Ref: ID# 669003

Enc. Submitted documents

c: Requestor
(w/o enclosures)