



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 8, 2017

Ms. Danielle R. Folsom  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2017-27924

Dear Ms. Folsom:

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# 687013 (GC No. 24623).

The City of Houston (the "city") received a request for information pertaining to transportation network company drivers. You state you have no information responsive to a portion of the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Get Me, LLC; GLT Transportation; Uber Technologies, Inc. ("Uber"); and Wingz, Inc. Accordingly, you state, and provide documentation showing, you notified the third parties 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 Rasier, LLC ("Rasier"), a wholly owned subsidiary of Uber. We have reviewed the submitted information and considered the submitted arguments.

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

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 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.

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.

*Id.* § 2402.001(5). The submitted information consists of names, addresses, and other personally identifiable information of drivers 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.<sup>2</sup>

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](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,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MC/sb

Ref: ID# 687013

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

4 Third Parties  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address Rasier's arguments against disclosure of this information.