



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 13, 2018

Ms. Tangerla Williams  
Public Information Officer  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2018-03445

Dear Ms. Williams:

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# 695700 (ORR #W002265-111514).

Dallas Area Rapid Transit ("DART") received a request for information.<sup>1</sup> You state DART has released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, you state DART sought clarification from the requestor with respect to a portion of the request. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also 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 overbroad request for information, the ten-day period to request an attorney general ruling is measured from the

---

<sup>1</sup>As you failed to submit a copy of the request for information, we take our description from your brief.

<sup>2</sup>We note DART did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nevertheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness. Thus, we will consider the applicability of section 552.101 to the submitted information. *See id.* §§ 552.007, .302, .352.

date the request is clarified or narrowed). You inform us DART has not received a response from the requestor for this portion of the request. Thus, for the portion of the request for which you have sought but have not received clarification, we find DART is not required to release information in response to this portion of the request. However, if the requestor clarifies this portion of the request for information, DART must seek a ruling from this office before withholding any responsive information from the requestor. *See* Gov't Code § 552.222; *City of Dallas*, 304 S.W.3d at 387. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990).

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. This section encompasses information protected by other statutes, such as section 452.061 of the Transportation Code. DART is a regional transportation authority governed by chapter 452 of the Transportation Code. *See* Transp. Code ch. 452; *see also id.* § 452.001(1) (defining “authority” for purposes of chapter 452 of the Transportation Code). Section 452.061 of the Transportation Code provides in relevant part:

(e) Personal identifying information collected by an authority is confidential and not subject to disclosure under [the Act], including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

*Id.* § 452.061(e). You assert the submitted information consists of personal identifying information made confidential by subsection 452.061(e). We note subsection 452.061(e) is contained in section 452.061, which is titled “Fares and Other Charges.” Additionally, subsections (a) through (d) of section 452.061 discuss an authority's responsibilities in imposing fares and other charges and the state's power to regulate taxes imposed by an authority or other compensation authorized by this section. *See id.* § 452.061(a)–(d). Accordingly, we conclude subsection 452.061(e) is only applicable to personal identifying information collected by DART for purposes relating to the collection of fares and other charges. *Cf. Paxton v. Tex. Dep't of State Health Servs.*, 500 S.W.3d 702, 706 (Tex. App.—Austin 2016, no pet.) (holding although isolated reading of section 531.1021(g) of Government Code suggests it applies to any Office of Inspector General (“OIG”) investigation, confidentiality of OIG investigations provided by section 531.1021(g) must be read in context of OIG's enabling provisions and thus, extended only to OIG investigations concerning fraud, waste, and abuse in the provision and delivery of health and human services in the state). Upon review, we find DART did not collect the personal

identifying information at issue for purposes relating to the collection of fares and other charges. Consequently, the submitted information is not confidential under subsection 452.061(e) of the Transportation Code, and DART may not withhold it under section 552.101 on that basis. As you raise no other exception against disclosure, DART must release the submitted information.

DART also asks this office to issue a previous determination that would authorize it to withhold personal identifying information collected by DART under section 552.101 of the Government Code in conjunction with section 452.061 of the Transportation Code without seeking a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). In the alternative, DART asks this office to issue a previous determination that would authorize it to release personal identifying information collected by DART. We decline to issue such a previous determination with respect to either request at this time. Accordingly, 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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/sb

Ref: ID# 695700

Enc. Submitted documents

c: Requestor  
(w/o enclosures)