



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 7, 2019

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

OR2019-03710

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# 749341 (ORR# C014126).

The City of Austin (the "city") received a request for certain transportation data for stated time periods. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts from public 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:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 [the Act].

(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). You state the submitted information consists of records submitted by a transportation network company to the city for the purposes of complying with a municipal ordinance. Upon review, we find the submitted information consists of records, data, or other information disclosed to a public entity, the city, by a transportation network company.

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.

You also ask this office to issue a previous determination permitting the city to withhold from disclosure records, data, or other information disclosed to the city by a transportation network company under section 552.101 of the Government Code in conjunction with section 2402.152 of the Occupations Code without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Therefore, 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,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/gw

Ref: ID# 749341

Enc. Submitted documents

c: Requestor
(w/o enclosures)