



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 19, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2019-04609

Dear Mr. Kopp:

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# 751076 (Ref. No. W240748).

The City of San Antonio (the "city") received a request for monthly airport fees paid to the city by two named companies during a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 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

¹We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

“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). You state the submitted information consists of fees paid to the city’s airport based upon a per trip charge for monthly trips, as reported by the two named companies, which are transportation network companies as defined by section 2402.001(5). 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.

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 black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Merédith L. Coffman
Assistant Attorney General
Open Records Division

MLC/som

Ref: ID# 751076

Enc. Submitted documents

c: Requestor
(w/o enclosures)