



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 12, 2019

Mr. Joseph J. Gorfida, Jr.
Counsel for the Denton County Transportation Authority
Nichols, Jackson, Dillard, Hager & Smith L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201

OR2019-09947

Dear Mr. Gorfida:

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# 759077 (Ref. No. 105852).

The Denton County Transportation Authority (the "authority"), which you represent, received a request for the authority's current contracts with three named companies. You state the authority has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Lyft, Inc. ("Lyft") and Spare Labs ("Spare"). Accordingly, you state, and provide documentation showing, you notified Lyft and Spare of the request for information and of the 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 reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it does not pertain to the requested information. This ruling does not address the public availability of any information that is not responsive to the request and the authority is not required to release such information in response to this request.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any comments from Lyft or Spare explaining why any of the submitted information should not be released. Therefore, we have no basis to conclude Lyft or Spare has protected proprietary interests in the information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Consequently, the authority may not withhold any of the submitted information on the basis of any proprietary interests Lyft or Spare may have in the information.

We note some of the submitted information is subject to section 552.136 of the Government Code, which states “[n]otwithstanding any other provision of [the Act], 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.”¹ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for purposes of this exception. *See* Open Records Decision No. 684 at 9 (2009). Thus, the authority must withhold the insurance policy numbers we marked under section 552.136 of the Government Code. The authority must release the remaining responsive 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

¹The 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).

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 'Lecelle Clarke', written in a cursive style.

Lecelle Clarke
Attorney
Open Records Division

LC/gw

Ref: ID# 759077

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 2 Third Parties
(w/o enclosures)