



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 8, 2020

Mr. Taylor Paris
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2020-13093

Dear Mr. Paris:

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# 827130 (FW PIR No. W098260).

The City of Fort Worth (the "city") received a request for documents pertaining to the RFP for Police Initiated Towing Services. You state you will release some information to the requestor. Although the city takes no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of the following third parties: ABC Wrecker Services; Sterling Towing & Recovery; Tegsco, LLC d/b/a AutoReturn ("AutoReturn"); TXI Systems, Inc.; Dispatch & Tracking Solutions; and Fort Worth Area Towing Alliance. Accordingly, you state, and provide documentation showing, you notified these third parties 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 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We received comments from AutoReturn. We have reviewed the submitted arguments and information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have only received comments from AutoRun. We have not received comments from the

remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude the remaining third parties have a protected proprietary interest in the submitted 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. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

We understand AutoReturn to assert a portion of its information is excepted from disclosure under section 552.110(c) of the Government Code. Section 552.110(c) excepts from disclosure “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(c). AutoReturn argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find AutoReturn has failed to provide specific factual evidence demonstrating the information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the city may not withhold any of the information at issue under section 552.110(c) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130. Accordingly, the city must withhold the motor vehicle record information we have indicated under section 552.130 of the Government Code.

Section 552.136 of the Government Code 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.” *Id.* § 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. Thus, the city must withhold the insurance policy numbers in the remaining submitted information under section 552.136 of the Government Code.

In summary, the city must withhold the motor vehicle record information we have indicate under section 552.130 of the Government Code. The city must withhold insurance policy numbers under section 552.136 of the Government Code. The city must release the remaining 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Amy Shipp
Assistant Attorney General
Open Records Division

ALS/gw

Ref: ID# 827130

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 6 Third Parties
(w/o enclosures)