



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 30, 2020

Ms. Helen Johnson
Officer of Public Information
North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026

OR2020-19000

Dear Ms. Johnson:

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# 838210 (File No. 2020-01087).

The North Texas Tollway Authority (the "authority") received a request for certain information pertaining to a specified traffic accident. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the exceptions 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. The authority raises section 552.101 in conjunction with section 366.178 of the Transportation Code, which provides, in relevant part, as follows:

(b-1) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, the [regional tollway authority] shall use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date or provide toll exemptions. Information collected under this subsection, including contact, payment, and

¹ We note, and you acknowledge, the authority failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of these exceptions to the submitted information, notwithstanding the authority's violation of section 552.301 in requesting this decision.

other account information and trip data, is confidential and not subject to disclosure under [the Act].

Transp. Code § 366.178(b-1). You inform us that as an alternative to payment of a toll at the time a vehicle is driven on the authority's tollway, the authority permits individuals to pay a higher toll rate at a later date through an invoicing system. You state the submitted information was collected by the authority pursuant to this subsection "to identify the registered owner of the non-paying vehicle and issue the ZipCash invoice or provide toll exemptions[.]" We therefore conclude the submitted information is confidential pursuant to section 366.178(b-1) of the Transportation Code and must be withheld under section 552.101 of the Government Code on that basis.²

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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/rm

Ref: ID# 838210

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.