



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 3, 2020

Ms. Sarah Parker
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2020-22497

Dear Ms. Parker:

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# 843199.

The Texas Department of Transportation ("TxDOT") received a request for video recordings pertaining to a specified incident and certain categories of information from a specified toll road during a defined period of time. You state TxDOT has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note you have submitted information beyond the types of information requested. This information is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the TxDOT is not required to release such information in response to this request.

¹ We 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.

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. This exception encompasses information that other statutes make confidential, such as section 228.057 of the Transportation Code, which provides in part:

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Transp. Code § 228.057(e). The term “customer” is not defined in the Transportation Code. We note “customer” is generally defined as “a buyer, purchaser, consumer, or patron” or “one who regularly or repeatedly makes purchases of, or has business dealings with, a tradesman or business.” BLACK’S LAW DICTIONARY 386 (6th ed. 1990); *see Henderson v. Central Power & Light Co.*, 977 S.W.2d 439, 447 (Tex. App.—Corpus Christi 1998, pet. denied) (quoting same definition from BLACK’S LAW DICTIONARY 348 (5th ed. 1979)); WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 559 (2002) (defining “customer” as “one that purchases some commodity or service”).

TxDOT states the submitted information consists of electronic toll collection customer account information and trip data. TxDOT states the information at issue pertains to actual customers who have made purchases in the TxTag or pay by mail toll programs. Based on TxDOT’s representations and our review, we find some of the information at issue falls within the scope of section 228.057(e). *See* Transp. Code § 228.057(e) (for purposes of Transp. Code § 228.057, “account information” includes contact and payment information and trip data). Thus, we conclude TxDOT must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 228.057(e) of the Transportation Code. However, we find you have failed to demonstrate any of the remaining responsive information consists of TxDOT’s customer account information or trip data. Thus, none of the remaining information at issue may be withheld under section 552.101 of the Government Code in conjunction with section 228.057(e) of the Transportation Code. The remaining responsive information must be released.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

² We note the requestor has a right of access to some of the information being released. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if TxDOT receives another request for the same information from a different requestor, TxDOT must again seek a decision from this office.

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,

Michelle Garza
Assistant Attorney General
Open Records Division

MG/gw

Ref: ID# 843199

Enc. Submitted documents

c: Requestor
(w/o enclosures)