



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 13, 2022

Ms. Jacqueline E. Hojem
Public Information Coordinator
Metropolitan Transit Authority of Harris County
P.O. Box 61429
Houston, Texas 77208-1429

OR2022-01186

Dear Ms. Hojem:

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# 925731 (Ref. No. 2021-0649).

The Metropolitan Transit Authority of Harris County (the "authority") received a request for information pertaining to a specified claim number. The authority states it does not maintain information responsive to a portion of the request.¹ The authority claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 protected by other statutes, such as section 451.061 of the Transportation Code. We understand the authority is a rapid transit authority governed by chapter 451 of the Transportation Code. *See* Transp. Code ch. 451; *see also id.* § 451.001(2) (defining "authority" for purposes of chapter 451 of the Transportation Code). Section 451.061 provides, in relevant part:

¹ The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

(f) Except as provided by Subsection (g), personal identifying information collected by an authority is confidential and not subject to disclosure under [the Act], including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number;
- (3) trip data, including the time, date, origin, and destination of a trip, and demographic information collected when the person purchases a ticket or schedules a trip; and
- (4) other personal information, including financial information.

Id. § 451.061(f). You assert the submitted information contains personal identifying information made confidential by subsection 451.061(f). We note subsection 451.061(f) is contained in section 451.061, which is titled “Fares and Other Charges.” Additionally, subsections (a) through (e) of section 451.061 discuss an authority’s responsibilities in imposing fares and other charges and the state’s power to regulate taxes imposed by an authority or other compensation authorized by this section. *See id.* § 451.061(a)-(e). Accordingly, we conclude subsection 451.061(f) is only applicable to personal identifying information collected by the authority for purposes relating to the collection of fares and other charges. *Cf. Paxton v. Tex. Dep’t of State Health Servs.*, 500 S.W.3d 702, 706 (Tex. App.—Austin 2016, no pet.) (holding although isolated reading of section 531.1021(g) of Government Code suggests it applies to any Office of Inspector General (“OIG”) investigation, confidentiality of OIG investigations provided by section 531.1021 (g) must be read in context of OIG’s enabling provisions and thus, extended only to OIG investigations concerning fraud, waste, and abuse in the provision and delivery of health and human services in the state). Upon review, we find the authority collected the personal identifying information at issue for purposes relating to the collection of fares and other charges. Accordingly, the submitted information is confidential under subsection 451.061(f) of the Transportation Code, and the authority must withhold it under section 552.101 of the Government Code on that basis.

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,

Katie Stallcup
Assistant Attorney General
Open Records Division

AKS/mo

Ref: ID# 925731

Enc. Submitted documents

c: Requestor
(w/o enclosures)