



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2022

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

OR2022-23144

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# 960426 (MTA No. 2022-0333).

The Metropolitan Transit Authority of Harris County, Texas (the "authority") received a request for information pertaining to the requestor's client on a specified date during a defined period of time. 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 information.

Initially, we note the requestor seeks only information pertaining to her client on the specified date during a defined period of time. The authority has submitted documents that contain information beyond these specific pieces of information. Thus, the portions of the submitted information that do not consist of the information requested are not responsive to the present request. 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 that information in response to the request.

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:

(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 responsive 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 responsive information is generally confidential under subsection 451.061(f) of the Transportation Code.

However, we note the information at issue relates to the requestor’s client. We note section 451.061(f) was intended to protect the privacy of public transit users. Senate Research Center, Bill Analysis, Tex. S.B. 858, 87th Leg., R.S. (2021) (provision intended to protect “riders” by clarifying that trip data and other personal identifying information is not subject to disclosure under the Act). Because section 451.061(f) protects personal privacy, the requestor has a special right of access to her client’s identifying information under section 552.023 of the Government Code. *See Gov’t Code* § 552.023(a) (“A person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s interests.”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Consequently, the authority may not withhold

any of the responsive information under section 552.101 in conjunction with section 451.061(f) of the Transportation Code. Thus, the authority must release the responsive information.¹

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,

Colin Henry
Attorney
Open Records Division

CEH/be

Ref: ID# 960426

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ We note the information being released in this instance is confidential with respect to the general public. See Gov't Code § 552.023(a); ORD 481 at 4. Because such information is confidential with respect to the general public, if the authority receives another request for this information from a different requestor, then the authority should again seek a ruling from this office.