



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2022

Ms. Kimberly Carlisle
Legal Counsel
Dallas Fort Worth International Airport Board
P.O. Box 619428
DFW Airport, TX 75261-9428

OR2022-38529

Dear Ms. Carlisle:

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# 989382.

The Dallas Fort Worth International Airport Board (the "board") received a request for information pertaining to the addition or reduction of any gates during a specified time period. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code.¹ You also state release of the information at issue may implicate the proprietary interests of Spirit Airlines ("Spirit") and Frontier Airline's Inc. ("Frontier"). Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances).

Initially, we note 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) 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 not received comments from Spirit or Frontier explaining why the information at issue should

¹ Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the information at issue. Gov't Code §§ 552.301, .302.

not be released. Thus, we have no basis to conclude Spirit or Frontier has a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the board may not withhold any portion of the requested information on the basis of any proprietary interest Spirit of Frontier may have in it.

Although you argue the submitted information is subject to section 552.110 of the Government Code, we note section 552.110 protects the interests of private parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally* Open Records Decision No. 592 (1991). Accordingly, we do not address your argument under section 552.110 of the Government Code. Since no further arguments have been raised, the board must release the submitted 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,

Anthony Crabtree
Attorney
Open Records Division

A1C/eb

Ref: ID# 989382

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)