



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 26, 1995

Mr. Harold Willard
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR95-496

Dear Mr. Willard:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32990.

The City of Lubbock (the "city") received a request for "figures on the amount of gross receipts received by each of the three existing . . . airport car rental companies." Although the city has no objections to the release of the requested information, you state that the city will notify the third party companies of the request for information and provide them the opportunity to submit reasons why the requested information should be withheld from required public disclosure.

Section 552.305 provides the following:

(a) In a case in which information is requested under this chapter and a third party's privacy or property interests may be involved, including a case under Section 552.101, 552.104, 552.110, or 552.114, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

(b) A person whose interests may be involved under Subsection (a), or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released.

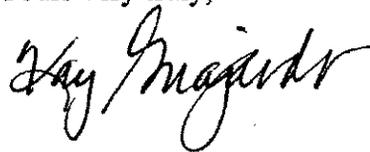
(c) The governmental body may, but is not required to, submit its reasons why the information should be withheld or released.

Under the Open Records Act, all information held by governmental bodies is open unless it falls within one of the Open Records Act's specific exceptions to disclosure. The Open Records Act places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). However, in cases such as this one, where a third party's privacy or property interests are implicated, the governmental body may rely on the third party to establish that the information should be withheld under applicable Open Records Act exceptions. Gov't Code § 552.305; Open Records Decision No. 542 (1990). The act does not require that this office raise and consider exceptions that have not been raised.

We have not received a response from any of the companies whose interests are involved in this request for information. Accordingly, the city must release the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LBC/rho

Ref: ID# 32990

Enclosures: Submitted documents

cc: Mr. J. Edwin Price
2301 Broadway
Lubbock, Texas 79401
(w/o enclosures)