



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2014

Ms. Halfreda Anderson-Nelson
Senior General Counsel
Dallas Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2014-06677

Dear Ms, Anderson-Nelson:

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# 520443 (DART ORR No. 10530).

Dallas Area Rapid Transit ("DART") received a request for complaint forms about the paratransit system that were previously released in a prior open records request and "customer comments" on complaint forms about the paratransit system during a specified time period. 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.

We note some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-19055 (2013). In that ruling, we concluded DART must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy, and DART must release the remaining information. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2013-19055 was based have changed. Accordingly, we conclude DART must continue to rely on Open Records Letter No. 2013-19055 as a previous determination and withhold or release the identical requested information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same

information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address the submitted argument for the submitted information.

We note the remaining portion of the requests seeks only "customer comments" on the complaint forms. The submitted information contains information beyond "customer comments." Accordingly, information beyond "customer comments" is not responsive to the present request. This ruling does not address the public availability of non-responsive information, and DART is not required to release non-responsive information in response to this 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. This section encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987).

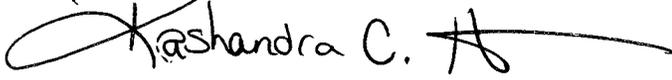
Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, DART must withhold the paratransit client identifying information in the submitted information under section 552.101 in conjunction with common-law privacy. However, the remaining information is either not highly intimate and embarrassing or is of legitimate public interest, or pertains to an individual who has been de-identified and whose privacy interests are, thus, protected. Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy. As you raise no additional exceptions, the remaining information must be released.

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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Rashandra C. Hayes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rashandra C. Hayes
Assistant Attorney General
Open Records Division

RCH/dls

Ref: ID# 520443

Enc. Submitted documents

c: Requestor
(w/o enclosures)