



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 7, 2014

Ms. Kerri L. Butcher
Chief Counsel
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR2014-11552

Dear Ms. Butcher:

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# 528104.

The Capital Metropolitan Transportation Authority (the "authority") received a request for information pertaining to Simon's Café L.L.C. ("Simon's Café"). You state the authority will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also claim release of this information may implicate the proprietary interests of Simon's Café. Accordingly, you state, and provide documentation showing, you notified Simon's Café of the request for information and of its right to submit arguments to this office as to why the information at issue 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). We have considered the exception you claim and reviewed the submitted information.

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 Simon's Café explaining why the submitted information should not be released. Therefore, we have no basis to conclude Simon's Café has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party

must establish *prima facie* case that information is trade secret), 542 at 3. Although you raise section 552.110, we note section 552.110 protects the interests of third parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally* Open Records Decision No. 592 (1991). Thus, we do not address the authority's argument under section 552.110 on behalf of Simon's Café. Accordingly, the authority may not withhold the submitted information on the basis of any proprietary interests Simon's Café may have in the information.

We note the submitted information contains insurance policy numbers. Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."¹ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 (2009). Thus, the authority must withhold the insurance policy numbers we marked under section 552.136 of the Government Code. As no other exceptions against disclosure have been raised, 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 528104

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Jae Park
President
Simon's Café, L.L.C.
10711 D-K Ranch Road
Austin, Texas 78759
(w/o enclosures)