



January 14, 2015

Ms. Sarah Parker  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR2015-00769

Dear Ms. Parker:

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# 550366.

The Texas Department of Transportation (the "department") received a request for all responses or submissions for a specified RFP. Although you take no position as to whether the requested information is excepted under the Act, you state release of the information may implicate the proprietary interests of Adopt-A-Highway Litter Removal Service of America ("Adopt-A-Highway"). Accordingly, you state, and provide documentation showing, you notified the third party of the request for information and of its 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). We have reviewed the submitted information.<sup>1</sup>

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 Adopt-A-Highway explaining why the submitted information should not be released. Therefore, we have no basis to conclude Adopt-A-Highway 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the department may not withhold any of the submitted information on the basis of any proprietary interest Adopt-A-Highway may have in the information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. 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/>

---

<sup>1</sup>We note, and you acknowledge, the department has not complied with the time periods prescribed by section 552.301 of the Government Code in seeking an open records decision from this office with respect to the submitted information. *See* Gov't Code § 552.301. When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public and must be released unless there is a compelling reason to withhold it. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason may exist to withhold information when the information affects third party interests. *See* Open Records Decision No. 150 at 2 (1977). As such, because third-party interests can provide a compelling reason for non-disclosure, we consider whether any of the information at issue may be withheld on behalf of a third party. *See* Gov't Code §§ 552.007, .302, .352.

[url\\_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,



Daniel Olds  
Assistant Attorney General  
Open Records Division

DO/akg

Ref: ID# 550366

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Melinda Centner  
Adopt-A-Highway Litter Removal Service of America  
4407 Manchester Avenue, Suite 201  
Encinitas, California 92024  
(w/o enclosures)