



February 9, 2015

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin
Law Department
P.O. Box 1088
Austin, Texas 78767-8828

OR2015-02492

Dear Ms. Nicholson:

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# 553039.

The City of Austin (the "city") received a request for car rental revenues for Austin-Bergstrom International Airport during a specified period of time.¹ Although you do not take any position as to whether the submitted information is excepted from disclosure under the Act, you state, and provide documentation showing, you notified third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.² *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

¹We note, and you acknowledge, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301 (b), (e). Nonetheless, because third party interests can provide a compelling reason to overcome the presumption of openness, we will consider third party arguments against disclosure. *See id.* §§ 552.007, .302, .352.

²The notified third parties are SRS Investment Management, L.L.C.; EAN Holdings, L.L.C.; The Hertz Corporation; Clearwater Transportation, Ltd. d/b/a Thrifty Car Rental; ACE Rent A Car/Payless Car Rental, Inc.; Advantage Opco, L.L.C.; Avis Rent A Car System, Inc.; Budget Rent A Car System, Inc.; and Clearwater Transportation, Ltd. d/b/a Dollar Car Rental.

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) of the Government Code 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 any of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude these third parties have protected proprietary interests 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. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest these third parties may have in the information. As no exceptions to disclosure have been raised for the submitted information, it 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,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/cbz

Ref: ID# 553039

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Howard Zaroff
Vice President/ General Manager
EAN Holdings, LLC
Enterprise Rent-A-Car
4210 South Congress Avenue
Austin, Texas 78745
(w/o enclosures)

Staff Vice President
The Hertz Corporation
Real Estate and Concessions
225 Brae Boulevard
Park Ridge, New Jersey 07656
(w/o enclosures)

Ms. Rene Mitchell
Clearwater Transportation Ltd.dba Thrifty Car
Rental
6013 Fountainwood Drive
San Antonio, Texas 78233
(w/o enclosures)

Mr. Robert Bouta
Senior Vice President
ACE Rent-A-Car/Payless Car Rental Inc.
6 Sylvan Way
Parsippany, New Jersey 07054
(w/o enclosures)

Mr. Joe Olivera
VP of Airport Relations and Properties
Advantage Opco, LLC
101 Northeast Third Ave, Tower 101 Ste 1600
Fort Lauderdale, Florida 33301
(w/o enclosures)

Mr. Howard Zaroff
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