



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 21, 2015

Ms. Nneka Kanu  
Assistant City Attorney  
Legal Department  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2015-17390

Dear Ms. Kanu:

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# 576686 (GC No. 22339).

The City of Houston (the "city") received a request for all exchanges between Uber Technologies, Inc. ("Uber") and the city regarding compliance with the transportation network company permitting/licensing process, how Uber developed and distributed a specified information packet, and a specified promise made by Uber. The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, the city states release of the submitted information may implicate the proprietary interests of Uber. Accordingly, the city states, and provides documentation showing, it notified Uber 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

received comments from Uber. We have considered the submitted arguments and reviewed the submitted information.

Initially, the city notes some of the submitted information may be the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2015-02916A (2015) and 2015-06177 (2015). In response to Open Records Letter Nos. 2015-02916A and 2015-06177, Rasier, LLC, has filed lawsuits against our office. *See Rasier LLC v. Ken Paxton, Attorney Gen. of Tex.*, No. D-1-GN-15-001098 (53rd Dist. Ct., Travis County, Tex.); *Rasier LLC v. Ken Paxton, Attorney Gen. of Tex.*, No. D-1-GN-15-001596 (353rd Dist. Ct., Travis County, Tex.). Accordingly, with regard to the information at issue in these lawsuits, we will allow the trial courts to resolve the issue of whether the information that is the subject of the pending litigation must be released to the public.<sup>1</sup>

Section 552.104(a) of the Government Code excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov’t Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, No. 12-1007, 2015 WL 3854264, at \*7 (Tex. June 19, 2015). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Id.* at \*9. Uber states it has competitors and asserts release of the remaining information would give its competitors a decisive advantage. After review of the information at issue and consideration of the arguments, we find Uber has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude city may withhold the remaining information under section 552.104(a).<sup>2</sup>

In summary, we will allow the trial courts to resolve the issue of whether the information that is the subject of pending litigation must be released to the public. The city may withhold the remaining information under section 552.104(a) of the Government Code.

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/>

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<sup>1</sup>As we are able to make this determination, we need not address the submitted arguments against disclosure of this information.

<sup>2</sup>As our ruling is dispositive, we need not address the city’s remaining argument against disclosure of this information.

[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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 576686

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Raiser  
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