



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 9, 2015

Ms. Nancy Reyes  
Assistant City Attorney  
Office of the City Attorney  
City of San Antonio  
9800 Airport Boulevard  
San Antonio, Texas 78216-9990

OR2015-18833

Dear Ms. Reyes:

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# 578643 (COSA File No. W087362-062315).

The City of San Antonio (the "city") received a request for information pertaining to gross rental car revenue, passenger traffic, and transportation gross sales reported for taxis, Uber, and limousine service. The city states it will release some information. Although the city takes no position as to whether the remaining requested information is excepted under the Act, the city informs us release of this information may implicate the proprietary interests of Advantage Rent A Car, Alamo Rent A Car, Avis Rent A Car, Dollar Rent A Car, Enterprise Rent A Car, Hertz Rent A Car, National Rent A Car, Budget Rent A Car, and Thrifty Rent A Car. Accordingly, the city states, and provides documentation showing, it notified these third parties of the request for information and of their 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).

Initially, we must address the city's obligations under the Act. Section 552.301 of the Government Code describes the obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(e), a

governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). The city states it received the request for information on June 23, 2015. However, as of the date of this letter, the city has not submitted for our review a copy or representative sample of the information requested. Accordingly, we find the city failed to comply with the requirements of section 552.301 of the Government Code.

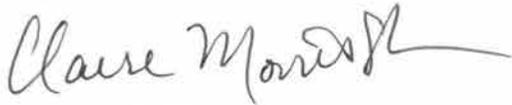
Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Therefore, we will address the interests of the third parties in withholding the requested information.

We note 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. Gov't Code § 552.305(d)(2)(B). However, as of the date of this letter, we have not received comments from a third party explaining why its information should not be released. Therefore, we have no basis to conclude a third party has a protected proprietary interest in any of the requested 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 requested information based upon the proprietary interests of any third parties. Furthermore, because the city did not submit the requested information for our review, we have no basis for finding any of the requested information excepted from disclosure or confidential by law. Thus, we have no choice but to order the city to release the requested information in accordance with section 552.302 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/orl\\_ruling\\_info.shtml](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 578643

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Joe Olivera  
VP Airport Relations & Property  
Advantage Rent-A-Car  
51052 Highland Colony Parkway,  
Suite 204  
Ridgeland, Mississippi 39157  
(w/o enclosures)

Mr. Robert Bouta  
Senior VP Director  
Properties & Facilities Department  
Avis Rent A Car  
c/o Nancy Reyes  
Assistant City Attorney  
Office of the City Attorney  
City of San Antonio  
9800 Airport Boulevard  
San Antonio, Texas 78216-9990  
(w/o enclosures)

Ms. Wendy Duval  
Director of Airport Relations  
Alamo Rent A Car  
P.O. Box 613109  
DFW Airport, Texas 75261-3109  
(w/o enclosures)

Ms. Wendy Duval  
Director of Airport Relations  
Enterprise Rent A Car  
P.O. Box 613109  
DFW Airport, Texas 75261-3109  
(w/o enclosures)

Ms. Wendy Duval  
Director of Airport Relations  
National Rent A Car  
P.O. Box 613109  
DFW Airport, Texas 75261-3109  
(w/o enclosures)

Ms. Jackie Agan  
Director Properties  
Thrifty Rent A Car  
225 Brae Boulevard  
Park Ridge, New Jersey 07054  
(w/o enclosures)

Ms. Jackie Agan  
Director Properties  
Dollar Rent A Car  
225 Brae Boulevard  
Park Ridge, New Jersey 07054  
(w/o enclosures)

Ms. Jackie Agan  
Director Properties  
Hertz Rent A Car  
225 Brae Boulevard  
Park Ridge, New Jersey 07054  
(w/o enclosures)

Mr. John Harris  
Owner  
Budget Rent A Car  
430 Sandau Road  
San Antonio, Texas 78216  
(w/o enclosures)