



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 23, 2015

Ms. Claire Swann
Assistant General Counsel
North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026

OR2015-24567

Dear Ms. Swann:

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# 588168 (NTTA File No. 2015-01200).

The North Texas Tollway Authority (the "authority") received a request for images from a specified account over a specified time period.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the instant request because it is not the requested images. This ruling does not address the public availability of any information that is not responsive to the request and the authority is not required to release such information in response to this request.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹You acknowledge, and we agree, the authority did not comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the authority's claim under that section.

Code § 552.101. Section 552.101 encompasses information other statutes make confidential. The authority is governed by the Texas Regional Tollway Authority Act, chapter 366 of the Transportation Code. Section 366.178 of the Transportation Code provides in relevant part:

(b-1) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date or provide toll exemptions. Information collected under this subsection, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Transp. Code § 366.178(b-1). You inform us that, as an alternative to payment of a toll at the time a vehicle is driven or towed on the authority's tollway, the authority permits individuals to pay a higher toll rate at a later date through the ZipCash invoicing system. You state the images were collected by the authority pursuant to this subsection "to identify the registered owner of the nonpaying vehicle and issue the ZipCash invoice or provide toll exemptions." We therefore conclude the responsive images are confidential under section 366.178(b-1) of the Transportation Code and must be withheld under section 552.101 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, 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 588168

Enc. Submitted documents

c: Requestor
(w/o enclosures)