



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2016

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

OR2016-01651

Dear Ms. Evans:

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# 594959 (GC No. 22763).

The City of Houston (the "city") received a request for the number of licenses and permits issued over a specified period time for any company covered under chapter 46 of the city code and drivers required by article 1, division 2 of the city code to obtain a vehicle for hire license related to the use of their personal vehicles. Although you take no position as to whether the submitted information is excepted from disclosure, you state release of this information may implicate the proprietary interests of Rasier, LLC, d/b/a Uber ("Rasier"). Accordingly, you notified Rasier of the request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* 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 received comments from Rasier. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." *Id.* § 552.104(a). A private third

party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 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 841. Rasier states it has competitors. Rasier also states release of the requested information “would enable Rasier’s competitors to reverse engineer an accurate picture of Rasier’s operating costs and profit margins and the size of the Houston [transportation network company] market[.]” Rasier contends the transportation network company marketplace is extremely competitive, and competitors could use the requested information in order to “enter the [Houston] market and undercut Rasier.” After review of the information at issue and consideration of the arguments, we find Rasier has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a).¹

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/eb

Ref: ID# 594959

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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