



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 9, 2016

Ms. Angela Hough  
Assistant General Counsel  
North Texas Tollway Authority  
5900 West Plano Parkway, Suite 100  
Plano, Texas 75093

OR2016-13242

Dear Ms. Hough:

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# 613732 (ORR# 2016-00795).

The North Texas Tollway Authority (the "authority") received a request for information pertaining to a specified incident, a list of vehicles entering and leaving specified locations during a specified time period, and the opportunity to inspect a specified light pole.<sup>1</sup> 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 address the instant request to the extent it seeks to inspect "a similar pole and its components" and seeks to speak with several named individuals. This office has ruled tangible physical items are not "information" as that term is contemplated under the Act. *See, e.g.,* Open Records Decision No. 581 (1990). Thus, we find any responsive tangible physical items maintained by the authority are not public information as that term is defined in section 552.002 of the Government Code, and the Act does not require the authority to make the specified items available to the requestor. *See* Gov't Code § 552.021. Further, with regard to the portion of the request in which the requestor seeks to speak with named

---

<sup>1</sup>You state the authority sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

individuals, we note the Act applies only to information that is “written, produced, collected, assembled, or maintained . . . in connection with the transaction of official business . . . by a governmental body[.]” *Id.* § 552.002(a)(1). The Act generally requires the disclosure of information maintained by a governmental body. *Id.* The Act does not require a governmental body to provide a requestor with access to public employees in order to conduct interviews of such employees.

Next, we note you have not submitted any information responsive to several portions of the request seeking documents related to the incident. Therefore, to the extent information responsive to the remaining portions of the request existed when the authority received the request, we assume you have released it to the requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov’t Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 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 366.179 of the Transportation Code provides, in relevant part, the following:

(a) For purposes of this section, a transponder is a device placed on or within a motor vehicle that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

...

(d) Transponder account information, including contact and payment information and trip data, is confidential and not subject to disclosure under [the Act].

Transp. Code § 366.179(a), (d). The authority informs us, in connection with the operation of its toll projects, it issues transponders or “TollTags” to authority customers wishing to establish an account with the authority. The authority states the information submitted as Attachment B-1 consists of TollTag account information that is compiled by the authority. Based on these representations, we agree the authority must withhold Attachment B-1 under section 552.101 of the Government Code in conjunction with section 366.179(d) of the Transportation Code.

Section 552.101 of the Government Code also encompasses information made confidential by section 366.178 of the Transportation Code, which provides, in relevant part, the following:

(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.

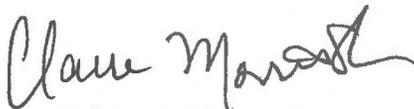
Transp. Code § 366.178(b-1). You inform us as an alternative to payment of a toll at the time a vehicle is driven on the authority's tollway, the authority permits individuals to pay a higher toll rate at a later date through the ZipCash invoicing system. You state the information submitted as Attachment B-2 was 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 Attachment B-2 is confidential under section 366.178(b-1) of the Transportation Code and must be withheld under section 552.101 of the Government Code.

In summary, the authority must withhold Attachment B-1 under section 552.101 of the Government Code in conjunction with section 366.179(d) of the Transportation Code and must withhold Attachment B-2 under section 552.101 of the Government Code in conjunction with section 366.178(b-1) of the Transportation 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# 613732

Enc. Submitted documents

c: Requestor  
(w/o enclosures)