



# The Attorney General of Texas

August 21, 1978

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Attorney General

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An Equal Opportunity  
Affirmative Action Employer

Honorable Robert M. Collie, Jr.  
City Attorney  
Legal Department  
P. O. Box 1562  
Houston, Texas 77001

Open Records Decision No. 203

Re: Whether taxicab financial  
and usage reports submitted to a  
city are public under the Open  
Records Act.

Dear Mr. Collie:

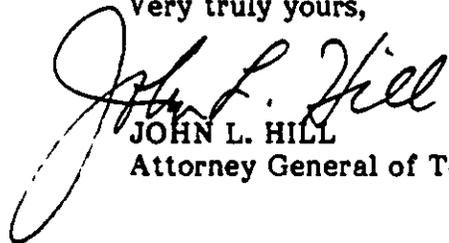
Under the Open Records Act, article 6252-17a, V.T.C.S., you have requested our opinion regarding the public availability of various financial reports submitted by Houston taxicab companies to the city of Houston. The reports are required of all cab companies in Houston for purposes of assuring compliance with safety standards and for setting rates. Included in the reports submitted by each cab company is a balance sheet, an income statement, a reconciliation of retained earnings, and various utilization reports concerning the number of passengers handled, miles logged, and gasoline and oil usage. The reports are maintained by each cab company according to specifications set out by the city.

You contend that the reports are excepted from required public disclosure under section 3(a)(4) of the Open Records Act. Section 3(a)(4) excepts "information which, if released, would give advantage to competitors or bidders." This office has, in the past, construed the 3(a)(4) exception narrowly, requiring a showing of a specific actual or potential harm to a company's competitive position before precluding disclosure. See Open Records Decision Nos. 184 (1978); 170 (1977); 95, 75 (1975); 48, 45 (1974). No such showing has been made here.

Additionally, you contend that the 3(a)(10) exception is applicable to the records in question. Section 3(a)(10) provides an exception for "trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." A mere expectation of confidentiality by the individual supplying the information is not enough to satisfy the "by statute or judicial decision" requirement of section 3(a)(10). Attorney General Opinion H-258 (1974). It is unlikely that 3(a)(10) exempts any records not already within the 3(a)(1) blanket exception for all "information deemed confidential by law." Id.

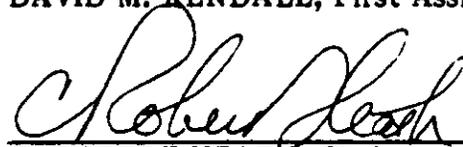
As early as Open Records Decision No. 10 (1973), this office considered whether a state audit report on a private child care institution fell within the 3(a)(10) exception. We stated that "[t]he audit . . . was made for a governmental body and, having been completed, is not exempt from disclosure by statute or judicial decision covering confidentiality or privilege." In Open Records Decision No. 173 (1977) we held that financial statements of proprietary schools required to be submitted to the Texas Education Agency were public. The decision was predicated on the fact that the reports were required by law so there was no impairment of the government's ability to obtain the information in the future, and that the schools could not demonstrate any specific harm from release of the information. These same considerations apply to the cab company records. First the reports are made for the city of Houston. They are an integral part of safety standard compliance and rate setting. Thus, the public clearly has an interest in the contents of the reports. Second, because the reports are required by law, the city's ability to acquire information in the future will not be affected. Further, we have not received any evidence of a specific harm which would be suffered by cab companies if these reports were released. It is therefore our decision that the financial and usage reports of Houston cab companies are not excepted under either section 3(a)(4) or 3(a)(10) of the Act, and are public and should be disclosed.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant  
C. ROBERT HEATH, Chairman  
Opinion Committee

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