



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 13, 2009

Ms. Sharon Alexander  
Associate General Counsel  
Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701-2483

OR2009-11307

Dear Ms. Alexander

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# 355735.

The Texas Department of Transportation (the "department") received a request for the amounts owed by the ten persons who owe the most in tolls and fees for travel on tollways operated by the department in Travis, Hays, and Smith Counties. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.<sup>1</sup>

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 228.057 of the Transportation Code, which provides in part:

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Transp. Code § 228.057(e). The term "customer" is not defined in the Transportation Code. We note that "customer" is generally defined as "a buyer, purchaser, consumer, or patron"

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<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

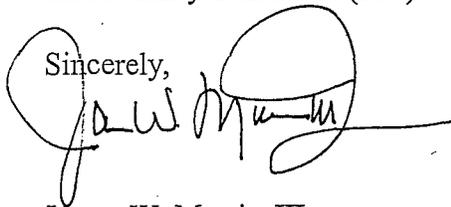
or "one who regularly or repeatedly makes purchases of, or has business dealings with, a tradesman or business." BLACK'S LAW DICTIONARY 386 (6th ed. 1990); *see Henderson v. Central Power & Light Co.*, 977 S.W.2d 439, 447 (Tex. App.—Corpus Christi 1998, pet. denied) (quoting same definition from BLACK'S LAW DICTIONARY 348 (5th ed. 1979)); WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 559 (2002) (defining "customer" as "one that purchases some commodity or service").

You contend that the submitted information consists of electronic toll collection customer account information. You state that the information at issue pertains to "actual customers" that have business relationships with the electronic toll collection system and have regularly or repeatedly made purchases in the electronic toll collection program through electronic toll collection lanes. Based on your representations and our review of the information at issue, we find that the submitted information falls within the scope of section 228.057(e). We note that the requestor does not seek access to the names of persons who owe tolls and fees. He contends that if the identities of the account payers are not revealed, their privacy interests are not implicated, and the dollar amounts of the tolls and fees owed need not be withheld. We disagree. The express language of section 228.057(e) encompasses more than a customer's identifying information. Instead, the legislature has expressly mandated that "[e]lectronic toll collection customer account information, including contact and payment information and trip data, is confidential[.]" Transp. Code § 228.057(e); *see Open Records Decision No. 649 at 3 (1996)* (language of confidentiality provision controls scope of its protection). Thus, in accordance with the express language of the statute, we conclude that the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 228.057(e) 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a long horizontal flourish extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 355735

Enc: Submitted documents

c: Requestor  
(w/o enclosures)