



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2011

Mr. Hyatt O. Simmons
General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2011-15612

Dear Mr. Simmons:

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# 434190 (DART ORR 8412).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to a specified incident. You state you have released some of the requested information. You claim the information submitted as Attachment B is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. Additionally, although you take no position as to whether the information submitted as Attachment C is excepted under the Act, you state release of the information at issue may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation showing, you notified Kone of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

You inform us the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-13240 (2011). In that ruling, we found DART may withhold the information in Attachment B under section 552.103 of the Government Code but must release the information in Attachment C. We conclude, as we have no indication the law, facts, and circumstances on which the prior

ruling was based have changed, DART may continue to rely on that ruling as a previous determination and withhold or release the submitted information in accordance with Open Records Letter No. 2011-13240. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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, 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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 434190

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Kurt Stespaniak
Senior Vice President Legal Department
Kone
4225 Naperville Road
Lisle, Illinois 60532
(w/o enclosures)