



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2011

Ms. Susana Carbajal Gonzalez  
Assistant City Attorney  
City of Austin Aviation Department  
3600 Presidential Boulevard, Suite 411  
Austin, Texas 78719

OR2011-18007

Dear Ms. Gonzalez:

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# 439051.

The City of Austin (the "city") received a request for the rental revenue of the current on-site rental car companies for 2010 and 2011, and three other related categories of information. You state the city has provided some of the requested information to the requestor. You do not take a position as to whether the submitted information is excepted from disclosure under the Act; however, you state, and provide documentation showing, you notified the following interested third parties of the city's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released to the requestor: Ace Rent A Car; Advantage Rent A Car; Alamo-National Rent-A-Car/Vanguard Car Rental USA, Inc.; Avis Rent A Car System, LLC; Budget Rent A Car System, Inc.; Dollar Rent A Car/Clearwater Transportation, Inc.; Enterprise Rent A Car; The Hertz Corporation; and Thrifty Car Rental/Clearwater Transportation, Inc. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 reviewed the submitted information.

Initially, we must address the city's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this

office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for the attorney general's decision within ten business days of receiving the written request for information. You inform us the city received the request for information on September 21, 2011. Thus, the city's ten-business-day deadline to request a ruling from this office under the Act was October 5, 2011. However, the envelope in which the request for a ruling was submitted to this office is postmarked October 6, 2011. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Therefore, the city failed to comply with the procedural requirements mandated by section 552.301.

A governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can generally be overcome by demonstrating the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Therefore, we will consider whether the city must withhold the submitted information to protect the interests of the interested third parties.

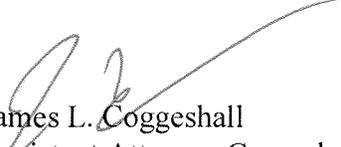
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the interested third parties has submitted to this office any reasons explaining why the requested information should not be released. We thus have no basis for concluding any portion of the submitted information constitutes proprietary information of any interested third party, and the city may not withhold any portion of the submitted information on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, the city must release the submitted information to the requestor.

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

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/ag

Ref: ID# 439051

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Dick Radzis  
Ace Rent A Car  
2985 Mannheim Road  
Des Plaines, Illinois 60018  
(w/o enclosures)

Ms. Jackie Agan  
Advantage Rent A Car  
The Hertz Corporation  
24890 78<sup>th</sup> Avenue, Suite 200  
Denver, Colorado 80249-6391  
(w/o enclosures)

Mr. Howard Zarof  
Alamo-National Rent-A-Car/Vanguard Car Rental USA, Inc.  
Enterprise Rent A Car  
4210 South Congress Avenue  
Austin, Texas 78745  
(w/o enclosures)

Mr. Joshua Blum  
Avis Rent A Car System, LLC  
Budget Rent A Car System, Inc.  
P.O. Box 612707  
Dallas, Texas 75261  
(w/o enclosures)

Mr. Monty Merrill  
Dollar Rent A Car/Clearwater Transportation, Inc.  
Thrifty Car Rental/Clearwater Transportation, Inc.  
6013 Fountain Wood  
San Antonio, Texas 78233  
(w/o enclosures)