



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2012

Ms. Elaine Nicholson  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2012-01418

Dear Ms. Nicholson:

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# 444218.

The City of Austin (the “city”) received a request for financial reports, operational reports, accident reports, costs of insurance, and marketing costs filed during the last five years by the three Austin taxi franchises. Although you take no position as to whether the submitted information is excepted under the Act, you inform us release of this information may implicate the proprietary interests of Yellow Cab Company, Lone Star Cab Company, and Austin Cab Company. Accordingly, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information 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 Act in certain circumstances). We have received comments from representatives of Greater Austin Transportation Company d/b/a Yellow Cab Company (“GATC”), Lone Star Cab Company (“Lone Star”), and Austin Cab Company (“Austin Cab”). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information contains e-mails sent from a city employee to third parties and a memorandum from Lone Star to the city. This information is not

responsive to the present request for information. This decision does not address the public availability of non-responsive information and the city need not release such information in response to this request.

Next, we note you have not submitted the requested cost of insurance reports, marketing cost reports, and accident reports. To the extent any such information existed on the date the city received the request, we assume the city has released it. If the city has not released such information, it must do so at this time. *See* Gov't Code § 552.301(a), .302; *see also* Open Records Decision No. 664 (200) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

GATC, Lone Star, and Austin Cab raise section 552.110(b) of the Government Code as an exception to disclosure of their financial and operational reports. Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6 (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause party substantial competitive harm).

GATC, Lone Star, and Austin Cab contend their information is commercial or financial information, release of which would cause substantial competitive harm to the companies. Upon review of the submitted information and the submitted arguments, we find GATC, Lone Star, and Austin Cab have established that release of their information would cause substantial competitive injury. Accordingly, the city must withhold the submitted information under section 552.110(b) of the Government Code.<sup>1</sup>

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

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<sup>1</sup>As our ruling is dispositive, we do not address GATC's remaining argument under section 552.110(a) of the Government Code.

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,



Jessica Marsh  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 444218

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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