



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 8, 2014

Ms. Halfreda Anderson Nelson
Public Information Officer
Senior Assistant General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2014-05790

Dear Ms. Nelson:

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# 519160 (DART ORR #s 10485 and 10496).

Dallas Area Rapid Transit ("DART") received two requests from the same requestor for 12 categories of information related to a specified motor vehicle accident involving a DART bus. You state DART has released non-objectionable documents to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information made confidential under other statutes, such as section 40.321 of title 49 of the Code of Federal Regulations. Section 40.321 relates to the confidentiality of workplace drug and alcohol testing and provides:

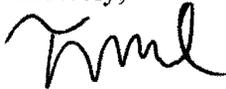
Except as otherwise provided in this subpart, as a service agent or employer participating in the [United States Department of Transportation] drug or alcohol testing process, you are prohibited from releasing individual test results or medical information about an employee to third parties without the employee's specific written consent.

49 C.F.R § 40.321. You state the submitted information contains drug and alcohol test results of a DART employee. You further state the information is maintained by DART pursuant to section 40.321 of title 49 of the Code of Federal Regulations. You do not indicate that any written consent has been given with respect to disclosure of the information in question. *See id.* § 40.321(b). Based upon your representations and our review, we conclude DART must withhold the information we have marked under section 552.101 in conjunction with section 40.321 of title 49 of the Code of Federal Regulations. However, you have failed to demonstrate the remaining information is subject to section 40.321 of title 49 of the Code of Federal Regulations. Thus, no portion of the remaining information may be withheld under section 552.101 on that basis. As you raise no further exceptions to disclosure, DART must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 519160

Enc. Submitted documents

c: Requestor
(w/o enclosures)