



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2014

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

OR2014-09704

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# 525033.

The Texas Department of Transportation (the “department”) received two requests for information pertaining to State Highway 130 transaction and revenue information. You state the department released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of SH 130 Concession Company, LLC. Accordingly, you state, and provide documentation showing, you notified SH 130 of the request for information and of its 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 the Act in certain circumstances). We have received comments from SH 130. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

We note this office issued Open Records Letter No. 2014-07646 (2014), a previous determination that State Highway 130 toll revenue and traffic count information of the type at issue in this ruling may be released by the department in response to a request under the

¹We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Act without seeking a ruling from this office. Therefore, as we have no indication the law, facts, and circumstances on which the previous ruling was based have changed, pursuant to Open Records Letter No. 2014-07646, the department must release the information at issue. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

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,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/akg

Ref: ID# 525033

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Ms. Marilyn Montano
For SH 130 Concession Company
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
(w/o enclosures)