

LEGAL AFFAIRS DIVISION
LEGAL OFFICE C128
DEPARTMENT OF MOTOR VEHICLES
2415 FIRST AVENUE
P.O. BOX 932382
SACRAMENTO, CA 94232-3820
(916) 657-6469



May 6, 2021

VIA EMAIL: aaron.greenspan@plainsite.org

Aaron Greenspan
Plainsite
956 Carolina Street
San Francisco, CA 94107

Re: Public Records Act Request
21-01543

Dear Mr. Greenspan:

The California Department of Motor Vehicles further acknowledges receipt of your email dated and received on April 12, 2021, requesting the following records pursuant to the California Public Records Act (Government Code section 6250 et seq.).

"I hereby request copies of all notes, memoranda and e-mails pertaining to any telephone call between Eric C. Williams of Tesla, Inc. and Miguel Acosta during March 2021."

The Department has determined that there are records responsive to your request. However, some records responsive to your request are exempt from disclosure under the California Public Records Act for the reasons set forth, below.

Some e-mails identified as responsive have been determined to be exempt from disclosure because they are subject to the deliberative process privilege in accordance with Government Code section 6255 and appellate cases interpreting that section, including *Times Mirror Co. v. Superior Court* (53 Cal. 3d 1325 (1991)). In this instance, some e-mails identified as responsive involve internal deliberations between lawyers, program staff, and senior policy officials at DMV tasked with regulating the autonomous vehicle program. The Department has determined the disclosure of such records would discourage candid discussion within the Department and thereby undermine the Department's ability to perform its functions. As such, the Department has determined the public interest in withholding these records outweighs the public interest in disclosure.

In addition, there is a memorandum that contains notes of the call between the Department and Tesla. A portion of the memorandum has also been redacted pursuant to Government Code section 6255 and the deliberative process privilege for the reasons set

forth in the preceding paragraph. The unredacted portion is attached to this correspondence.

Furthermore, some e-mails have been determined to be exempt from disclosure in accordance with Government Code section 6254(a) because they contain preliminary drafts of documents that are not retained in the ordinary course of business. The Department has determined the public's interest in withholding such documents outweighs the public interest in disclosure because these documents concern potential regulatory and administrative actions being considered internally by Department personnel. Furthermore, the release of such documents reflects the internal deliberations of Department personnel and are additionally exempt from disclosure pursuant to Government Code section 6255 and the deliberative process privilege for the reasons set forth above.

Finally, as required by the California Public Records Act, the person responsible for the determination to withhold responsive records pursuant to Government Code section 6255 is Miguel Acosta, Chief of the Autonomous Vehicles Branch of the Department of Motor Vehicles. (See Gov. Code § 6253, subd. (d).)

Attached to this letter are the non-exempt responsive records.

Sincerely,

JAE AHN
Attorney

Ahn, Jae S.@DMV

From: Soriano, Bernard C.@DMV
Sent: Monday, April 26, 2021 3:49 PM
To: Ahn, Jae S.@DMV
Subject: FW: Notes from Meeting with Tesla
Attachments: Tesla AP Clty Street Update 3 9 21.doc

Bernard C. Soriano
Deputy Director
916.657.8135

From: Acosta, Miguel D.@DMV <Miguel.Acosta@dmv.ca.gov>
Sent: Wednesday, March 10, 2021 10:32 AM
To: Berry, Jennifer J.@DMV <Jennifer.Berry@dmv.ca.gov>
Cc: Bisnett, Emily J.@DMV <Emily.Bisnett@dmv.ca.gov>; Gargiulo, Nathan E.@DMV <Nathan.Gargiulo@dmv.ca.gov>; Soriano, Bernard C.@DMV <Bernard.Soriano@dmv.ca.gov>
Subject: Notes from Meeting with Tesla

Hi Jennifer,

Please see my notes from our meeting with Tesla on March 9, 2021.

Thank you,

Miguel D. Acosta, Chief
Autonomous Vehicles Branch
California Department of Motor Vehicles
(916) 417-1025

Ahn, Jae S.@DMV

From: Eric Williams <erwilliams@tesla.com>
Sent: Thursday, April 22, 2021 7:38 PM
To: Acosta, Miguel D.@DMV
Cc: Soriano, Bernard C.@DMV
Subject: RE: Follow up letter from March 9th call

Thanks, Miguel. I'll give you a call tomorrow to update you on general progress (it's minor, nothing big).

From: Acosta, Miguel D.@DMV <Miguel.Acosta@dmv.ca.gov>
Sent: Wednesday, April 21, 2021 19:24
To: Eric Williams <erwilliams@tesla.com>
Cc: Soriano, Bernard C.@DMV <Bernard.Soriano@dmv.ca.gov>
Subject: Follow up letter from March 9th call

Hi Eric,

Thanks again for meeting to discuss the Navigate on AP City Streets expansion. Please see attached letter based on our discussion.

Miguel D. Acosta, Chief
Autonomous Vehicles Branch
California Department of Motor Vehicles
(916) 417-1025

Memorandum

Date : March 9, 2021
To : Memo to File
From : Miguel Acosta, Autonomous Vehicles Branch
Subject : Tesla AP City Streets Update

On March 9, 2021, DMV representatives, Miguel Acosta, Nathan Gargiulo, Jennifer Berry and Emily Bisnett participated in a teleconference call via Microsoft Teams with Tesla representatives Eric Williams, CJ Moore, Alex Cobern, & Beth Mykytiuk. The call started at 1:30pm.

Update on City Street Pilot:

Currently there are 824 vehicles in the pilot program- 753 employees and 71 nonemployees. Pilot participants are across 37 states with majority of participants in California. As of March 2021, pilot participants have driven over 153,000 miles using the City Streets feature. By the end of the Week of March 9, 2021 Tesla will expand this pool of participants to approximately 1600. In a tweet on March 5, 2021, Musk says the current beta program will double and the next version would be 10x that size. Further expansion of this number will need to be aligned with Elon Musk.

DMV asked about how the limitations and capabilities will be communicated to the approximately 800 new participants. Tesla had previously called each participant individually. Tesla indicated they are working on developing a video for the participants. Tesla will share the video with DMV once it is finalized.

DMV asked about the Tweet Elon Musk sent 3/9/2021, "Assuming user approves warning and agrees to drive carefully, it will be download latest QA tested FSD "Beta" build as soon as car connects to wifi. Build 8.3 of FSD should be done QA testing by end of next week, so that's roughly when download button should show up". Tesla said they are not able to comment on the specifics of the download button.

DMV asked about the early access program and how the additional beta participants will be selected. The next group of participants will include referrals from existing participants. The new participants will be vetted by Tesla by looking at insurance telematics based on the VINs registered to that participant.

DMV asked about the feedback loop for participants. Tesla indicated that participants provide feedback either by email or send written letter. Tesla also tracks when there are failures or when the feature is deactivated. CJ Moore

described these as “disengagements”. Tesla takes video footage and then labels and categorizes the event to make improvements.

DMV asked CJ to address, from an engineering perspective, Elon's messaging about L5 capability by the end of the year.

Tesla is at Level 2 currently. The ratio of driver interaction would need to be in the magnitude of 1 or 2 million miles per driver interaction to move into higher levels of automation. Tesla indicated that Elon is extrapolating on the rates of improvement when speaking about L5 capabilities. Tesla couldn't say if the rate of improvement would make it to L5 by end of calendar year.

DMV asked how the sales team ensures that messaging about the vehicle capabilities and limitations are communicated. Tesla sales associate receives training on autopilot including having to drive the vehicle. The associate receives a training certification. Ongoing video content is sent to associates who are quizzed on the content. Customers are shown the features of the vehicle when purchasing and if a customer inquires about getting the feature being piloted, they are directed to an email where they can apply to be part of the early access program.

DMV asked about regular software updates being released and how Tesla evaluates the potential advancement of levels of autonomy. Tesla indicated that they are still firmly in L2. Before they release updates to customers, the AP team tests and drives the vehicles every day. They would know when they are getting closer to L3 like performance well in advance of a potential release.

DMV thanked Tesla for the discussion and indicated that DMV would appreciate future updates as they become available.

The call ended at 2pm.

DEPARTMENT OF MOTOR VEHICLES

REGISTRATION OPERATIONS DIVISION

P.O. BOX 825393

SACRAMENTO, CA 94232-5393



April 21, 2021

Via email only

Mr. Eric Williams
Tesla, Inc.
1333 H Street NW Ste 11W
Washington, DC 20005

Dear Eric Williams:

The California Department of Motor Vehicles (DMV) appreciates the opportunity to continue communication as Tesla develops new automotive technology. During our recent call on March 9, 2021, you indicated that Tesla will be expanding the pool of participants in its Navigate on AutoPilot City Streets pilot, doubling the size.

Previously, Tesla was contacting each pilot participant individually to communicate the feature's capabilities, limitations, and participant responsibilities when using the feature. With the expansion of the pilot, Tesla has indicated that it is developing a video to communicate the technology's capabilities to new participants, which will be shared with the DMV.

Notwithstanding other public messaging from Tesla about developing vehicles capable of full driving automation, Tesla reiterated that the City Streets feature is currently a Society of Automotive Engineers (SAE) level two (2) Advanced Driver-Assistance feature and that Tesla will continue to monitor how participants interact with the feature and make improvements. As mentioned in your December 14, 2020 correspondence and per California regulations, should Tesla develop technology features characterized as SAE level 3 or higher, Tesla will seek the appropriate regulatory permitting from the DMV before autonomous vehicles are operated on public roads.

The DMV encourages Tesla to continue to provide clear and effective communication to customers, buyers, and the general public about the City Streets feature, which includes describing the capabilities and intended use, and the importance of actively monitoring the vehicle. As Tesla is aware, the public's misunderstanding about the limits of the technology and its misuse can have tragic consequences.

Mr. Eric Williams
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April 21, 2021

Sincerely,

A handwritten signature in blue ink, appearing to read "Miguel D. Acosta". The signature is fluid and cursive, with the first name "Miguel" written in a larger, more prominent script than the last name "D. Acosta".

MIGUEL ACOSTA, Chief
Autonomous Vehicles Branch