



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 6, 2009

Mr. Shane Britton  
Brown County Attorney  
200 South Broadway  
Brownwood, Texas 76801

OR2009-09213

Dear Mr. Britton:

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# 347970.

Brown County (the "county") received two requests from different requestors for specified invoices pertaining to vehicles owned or used by the Precinct 1 Commissioner's office.<sup>1</sup> The second requestor has also requested information regarding specified monetary receipts and expenditures. You indicate the county has provided some of the requested information to the second requestor. You claim the remaining requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim. We have also received and considered comments submitted by the second requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

We must address the county's obligations under the Act. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request a copy of the written request for information, and a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code §§ 552.301(e)(1)(B), (D). As of the date of this letter, you have not submitted to this office a copy of the first request for information, nor have you submitted a copy or representative

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<sup>1</sup>As you have not submitted a copy of the first request, we take our description from your brief.

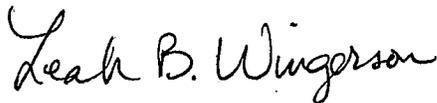
sample of the information at issue. Consequently, we find the county failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302 of the Government Code); Open Records Decision No. 319 (1982). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). Because the county has failed to comply with the requirements of the Act, the county has waived its claim under section 552.103, which is a discretionary exception to disclosure. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). We, therefore, conclude the county must release the requested information to the requestors pursuant to section 552.302.

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 at (512) 475-2497.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 347970

Enc. Submitted documents

c: Requestors  
(w/o enclosures)