



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2010

Mr. Antonio Juarez
Executive Director
Housing Authority of the City of Brownsville
P.O. Box 4420
Brownsville, Texas 78523

OR2010-06255

Dear Mr. Juarez:

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# 379116.

The City of Brownsville Housing Authority (the "authority") received a request for the application and résumé of the person hired to fill a specified tutor position. You raise section 552.102 of the Government Code. We have considered the exception you claim.

Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. 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 general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, and a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). You inform us the authority received the request for information on February 26, 2010. However, as of the date of this letter, you have not submitted to this office comments explaining why the stated exception applies, nor submitted a copy or representative sample of the information requested. Consequently, we find the authority failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by law. Open Records Decision No. 150 (1977). Although section 552.102 can provide a compelling reason for non-disclosure, you have not submitted the requested information for our review. Therefore, we have no basis for finding any information confidential. Thus, we have no choice but to order the authority to release the requested application and résumé. If you believe this information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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, 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, toll free, at (888) 672-6787.

Sincerely,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 379116

cc: Requestor