



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 20, 2010

Mr. Eloy Padilla
Assistant City Attorney
City of Del Rio
109 West Broadway Street
Del Rio, Texas 78840

OR2010-14221

Dear Mr. Padilla:

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# 393894.

The City of Del Rio (the "city") received a request for six categories of information pertaining to a named individual. Although you claim "all exceptions to disclosure under [the Act,]" you have not submitted arguments explaining how the exceptions apply to the submitted information. Further, you state that you "cannot identify [a] legitimate reason for withholding the [submitted information]." Therefore, we presume that you have withdrawn these exceptions. *See* Gov't Code §§ 552.301, .302. Nevertheless, you request a ruling from this office to determine whether the city must withhold the submitted information. We have reviewed the submitted information.

We must address the city'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 (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). You state the city received the request for information on July 6, 2010. Thus, the city's fifteen-business-day deadline was July 27, 2010. However, you did not submit a copy of the requested information until July 28, 2010. Furthermore, as of the date of this letter, you have not submitted written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld. Consequently, we find the city 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 comply with section 552.301 results in the legal presumption that 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 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). Generally, a compelling reason to withhold information exists when the information is made confidential by another source of law or third party interests are at stake. *See* Open Records Decision No. 630 (1994). In this instance, you raise no exceptions to disclosure of the submitted information. Therefore, the submitted information must be released to the requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply, then it must release information as soon as possible).

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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 393894

Enc. Submitted documents

c: Requestor
(w/o enclosures)