



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 20, 2010

Mr. James W. Wilson  
Rapier, Wilson & Wendland, P.C.  
1333 West McDermott, Suite 100  
Allen, Texas 75013

OR2010-19094

Dear Mr. Wilson:

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# 403645.

The Wylie Northeast Special Utility District (the "district"), which you represent, received a request for the agenda and minutes from July, 2010 through December, 2010 and the street names and addresses for all district customers.<sup>1</sup> You state the district has released the requested agenda and minutes, as well as some of the requested customer names and addresses. You claim the remaining requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the exception you claim.

We must address the district's procedural obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving an open records 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

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

<sup>2</sup>Although you cite to section 552.305 of the Government Code with respect to your argument that some of the submitted information may implicate individuals' privacy rights, that provision is not an exception to disclosure. Rather, the proper exception to claim for an individual's common-law or constitutional right to privacy is section 552.101 of the Government Code.

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. Gov't Code § 552.301(e)(1)(A)-(D). As of the date of this letter, you have failed to submit a copy of the written request for information or a copy or representative sample of the specific information you seek to withhold. Consequently, we find the district failed to comply with the requirements of section 552.301 in requesting this decision from our office.

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 the requested information is public and must be released unless a compelling reason exists 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, 381-82 (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); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Although section 552.101 can provide a compelling reason for non-disclosure, you have not submitted the responsive information you seek to withhold for our review. Therefore, we have no basis for finding any information confidential. Thus, we have no choice but to order the district to release the remaining street names and addresses. 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](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/tf

Ref: ID# 403645

Enc. Submitted documents

c: Requestor  
(w/o enclosures)