



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 22, 2011

Ms. Amada Gonzalez
Chief Appraiser
Zapata County Appraisal District
200 East 7th Avenue, Suite 240
Zapata, Texas 78076

OR2011-08926

Dear Ms. Gonzalez:

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# 421303.

The Zapata County Appraisal District (the "district") received a request for a list of property owners filing for exemption status. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the submitted information is not responsive to the request. The requestor seeks the names of property owners who have filed for an exemption status. Therefore, only the names of the property owners are responsive to the request. This ruling does not address the public availability of non-responsive information, and the district need not release information that is not responsive to the request.

Next, we must address the district's responsibilities under the Act. 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.

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. Gov't Code § 552.301(b). Pursuant to section 552.301(e), a governmental body must submit to this office, within fifteen business days of receiving the request, a copy of the specific information requested or a representative sample, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). The district received the request for information on March 24, 2011. Thus, the district was required to request a decision from this office and state the exceptions that apply by April 7, 2011. Further, the district was required to submit a copy of the specific information requested, or representative samples, by April 14, 2011. The district's request for a decision was postmarked on April 14, 2011. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Additionally, we find the district did not submit a copy or representative sample of the information requested. Thus, we find the district failed to comply with the requirements of section 552.301 of the Government Code.

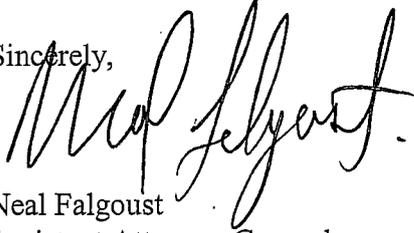
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See* Gov't Code § 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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Your claim under section 552.101 provides a compelling reason for non-disclosure. However, as previously noted, you have not submitted any responsive information for our review. Therefore, we have no basis for finding any of the requested information confidential by law. We must order the district to release the responsive information pursuant to section 552.302 of the Government Code. 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,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive style with a large initial "N".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 421303

Enc. Submitted documents

c: Requestor
(w/o enclosures)