



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2011

Mr. Art Pertile, III
Olson & Olson, L. L. P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2011-10802

Dear Mr. Pertile:

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# 425728 (ORR# COS11-023).

The City of Stafford (the "city"), which you represent, received a request for incident report numbers 10-2779 and 11-0922. You state you have released "front page" information. You claim the requested information is excepted from disclosure under sections 552.101 through 552.148 of the Government Code. We have considered the exceptions you claim.

We must address the city's obligations 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. Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). Pursuant to section 552.301(e), a governmental body is required to submit within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the claimed 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. Gov't Code § 552.301(e)(1)(A)-(D). You state the city received the request for information on May 24, 2011. In this instance, you timely raised exceptions to disclosure. However, as of the date of this letter, you have not submitted copies or a representative sample of the information you seek to withhold. Further, you have not submitted to this

office any written comments stating why the claimed exceptions apply. Accordingly, we conclude you 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 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 governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). Because you have failed to comply with the procedural requirements of the Act, you have waived all of the discretionary exceptions to disclosure. *See* Open Records Decision No. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Although you also raise mandatory exceptions to disclosure, because you have not provided copies of the requested information, we have no basis to determine any of the requested information is confidential by law and must be withheld. Thus, we conclude the requested information must be released pursuant to section 552.302. If you believe the 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/agn

Ref: ID# 425728

Enc. Submitted documents

c: Requestor
(w/o enclosures)