



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 22, 2012

Ms. Kelley Messer
Assistant City Attorney
City of Abilene
P. O. Box 60
Abilene, Texas 79604-0060

OR2012-04236

Dear Ms. Messer:

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# 448340.

The City of Abilene (the "city") received a request for two categories of information related to the Cedar Ridge Reservoir project. You state some responsive information has been released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.103, 552.105, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information constitutes a completed report made for the city that is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a) provides in relevant part the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). You seek to withhold the completed report under sections 552.103, 552.105, and 552.111 of the Government Code. However, these sections are discretionary in nature and do not make information confidential under the Act. *See id.* §§ 552.103, .105, .111; *Dallas Area Rapid Transit v. Dallas Morning News*, S.W.3d 69, 475-6 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); Open Records Decision Nos. 663 at 5 (1999) (governmental body may waive section 552.111), 564 (1990) (statutory predecessor to section 552.105 subject to waiver), 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Thus, the city may not withhold the completed report under section 552.103, section 552.105, or section 552.111. As you raise no additional exceptions to disclosure of this information, it must be released.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 448340

Enc. Submitted documents

c: Requestor
(w/o enclosures)