



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 14, 2012

Ms. Nan Rodriguez
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76513

OR2012-09179

Dear Ms. Rodriguez:

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# 456531.

The City of Temple (the "city") received a request for 19 categories of information related to a named city police officer. You state you will release some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.1175, and 552.130 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 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 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* Gov't Code § 552.301(e). You inform us the city received the request on April 4, 2012. Accordingly, the city's fifteen-business-day deadline was April 25, 2012. However, as of the date of this letter, you have not submitted for our review a copy or representative sample of the information requested. Consequently, we find the city failed to comply with the requirements of section 552.301(e).

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 requested information is public and must be released unless the governmental body

demonstrates a compelling reason 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, 381-81 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). 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). You assert that the requested information is confidential under sections 552.101, 552.117, 552.1175, and 552.130 of the Government Code. However, because the city has not submitted the requested information to this office for our review, we have no basis for finding it confidential under sections 552.101, 552.117, 552.1175, or 552.130.¹ Thus, we have no choice but to order you to release the requested information in accordance with section 552.302 of the Government Code. 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

¹We note, however, that section 552.024 of the Government Code permits a governmental body to withhold information subject to section 552.117 of the Government Code, which pertains to a person who has made a proper election, without seeking a ruling from this office. *See Gov't Code* § 552.024(c)(2). In addition, under subsection 552.1175(f) of the Government Code, a governmental body may withhold information subject to subsection 552.1175(b) without requesting an opinion from this office. *See id.* § 552.1175(f). We further note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

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No enclosures

c: Requestor