



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2012

Ms. Leandra Costilla Ortiz
Staff Attorney
Brownsville Independent School District
1900 Price Road
Brownsville, Texas 78521-2417

OR2012-12757

Dear Ms. Ortiz:

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# 462157 (Brownsville ISD PIR# 6591).

The Brownsville Independent School District (the "district") received a request for a specified police report. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim.

We must address the district's obligations under the Act. Section 552.301 of the Government Code describes the 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, the 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 state the district received the instant request for information on May 28, 2012. Accordingly, the district's fifteen-business-day deadline was June 19, 2012.

¹ Although you raised section 552.101 of the Government Code as an exception to disclosure in your initial letter dated June 6, 2012, you have not submitted arguments explaining how this exception is applicable to the submitted information. Therefore, we assume you no longer assert section 552.101 as an exception to disclosure. *See Gov't Code* §§ 552.301, .302.

However, as of the date of this letter, you have not submitted a copy or representative sample of the specific information requested. Accordingly, we conclude the district failed to comply with the requirements of section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released. Information 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 compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Although you raise section 552.108 of the Government Code for the requested information, this section is discretionary in nature. Section 552.108 serves only to protect a governmental body's interests, and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not constitute a compelling reason to withhold information for purposes of section 552.302. Thus, none of the requested information may be withheld under section 552.108 of the Government Code. As no other exceptions to disclosure are raised this information, the district must release it.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 462157

Enc. Submitted documents

c: Requestor
(w/o enclosures)