ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 15, 2012

Mr. Benjamin V. Lugg
Attorney
The Housing Authority of the City of San Antonio
P.O. Box 1300
San Antonio, Texas 78295-1300

OR2012-18408

Dear Mr. Lugg:

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# 471412.

The Housing Authority of the City of San Antonio (the "authority") received a request for five categories of information pertaining to three specified addresses. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.104, 552.105, 552.106, 552.107, 552.110, 552.111, 552.112, 552.113, 552.116, 552.117, 552.125, 552.128, 552.130, 552.131, 552.136, 552.137, 552.143, 552.146, 552.147, 552.149, and 552.153 of the Government Code.[1] We have considered the exceptions you claim.

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(e), a governmental body that receives

[1]Although you raise sections 552.021 and 552.301 of the Government Code, we note these sections are not exceptions to disclosure. Rather section 552.021 requires public information to be made available during normal business hours. *See* Gov't Code § 552.021. Section 552.301 sets out the duties of a governmental body to seek the attorney general's decision on whether information is excepted from disclosure to the public. *See Id.* § 552.301.

a request for information it wishes to withhold under an exception to disclosure is required to submit to this office within fifteen business days of receiving the request (1) 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. Gov't Code § 552.301(e). You inform us the authority received the request for information on August 29, 2012. However, as of the date of this letter, you have not submitted to this office arguments stating why any claimed exceptions apply to the information at issue, or a copy or representative sample of the information requested. Accordingly, we conclude the authority 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* ORD 630. Because you failed to comply with the requirements of the Act, the department has waived all of its claimed discretionary exceptions to disclosure. *See* Open Records Decision No. 665 at 2 n.5 (2000) (untimely request for decision results in waiver of discretionary exceptions). Although the authority also raises mandatory exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information confidential by law. Thus, we have no choice but to order the requested information 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,

Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID#471412

No enclosures

c: Requestor