



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 12, 2012

Ms. Ashley R. Allen
Staff Attorney
Administrative Law Section
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711-2873

OR2012-20005

Dear Ms. Allen:

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# 474896.

The Texas General Land Office (the "GLO") received a request for correspondence between the GLO and the U.S. Department of Housing and Urban Development related to the City of Galveston between June 23, 2012 and September 30, 2012. You claim the requested information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.104, 552.105, 552.107, 552.108, 552.110, 552.111, 552.113, 552.117, 552.130, 552.136, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim.

We must address the GLO's obligations under section 552.301 of the Government Code, which 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 must submit to this office within fifteen business days of receiving an open records 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. Gov't Code § 552.301(e). The GLO received the request for information on October 1, 2012. You inform us the GLO requested clarification of the request on October 9, 2012, and received clarification from the requestor on the same day. *See id.* § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad

request, ten-day period to request attorney general ruling is measured from date request is clarified). Thus, the GLO's fifteen-business-day deadline under section 552.301(e) was October 30, 2012. However, as of this date of this letter, the GLO has not submitted general written comments regarding the stated exceptions or a copy or representative samples of the requested information. Thus, the GLO failed to comply with the procedural requirements mandated by 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 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). By failing to comply with section 552.301, you have waived the discretionary exceptions you raised. *See* Open Records Decision No. 522 (1989) (discretionary exceptions in general). Furthermore, because you have not submitted the information to this office for our review, we have no basis for finding it confidential under the claimed mandatory exceptions. Therefore, we have no choice but to order the GLO to release the responsive information in accordance with section 552.302 of the Government Code. If the GLO believes the information is confidential and may not lawfully be released, the GLO 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 474896

c: Requestor

