



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 29, 2013

Mr. Steven R. Guy  
Attorney for City of Jacksonville  
Norman, Angle, Guy & Brewer, L.L.P.  
215 East Commerce, Second Floor  
Jacksonville, Texas 75766

OR2013-06986

Dear Mr. Guy:

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# 485674.

The City of Jacksonville (the "city"), which you represent, received a request for information regarding whether the city approves of multiple non-related individuals sharing a leasehold.<sup>1</sup> You claim the requested information is excepted from disclosure under sections 552.103, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim.

We must address the city's procedural obligations under the Act. Section 552.301 of the Government Code prescribes the procedures 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 a request for information it wishes to withhold under an exception to disclosure must 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

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<sup>1</sup>We note the requestor has asked the city to answer a question. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the city has made a good faith effort to do so.

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 city received the instant request for information on February 8, 2013. However, as of the date of this letter, you have not submitted a copy or representative sample of the specific information requested. Consequently, we find the city failed to comply with the requirements of section 552.301(e) of the Government Code.

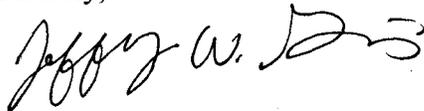
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption the information is public and must be released, unless a governmental body demonstrates a compelling reason to withhold the 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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). Normally, a compelling reason exists when third-party interests are at stake or when information is confidential under the Act or other law. Open Records Decision No. 150 (1977). Sections 552.103, 552.108, and 552.111 of the Government Code are discretionary exceptions to disclosure that protect a governmental body's interests and may be waived by the governmental body. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 677 at 10 (2002) (attorney work product privilege under section 552.111 may be waived), 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, these exceptions do not provide a compelling reason to withhold information for purposes of section 552.302. Thus, the city may not withhold any of the requested information under section 552.103, section 552.108, or section 552.111 of the Government Code. Accordingly, we have no choice but to order the city to release the requested information in accordance with section 552.302 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](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,

A handwritten signature in black ink, appearing to read "Jeffrey W. Giles". The signature is written in a cursive style with a large, stylized "J" and "G".

Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/dls

Ref: ID# 485674

No enclosures

c: Requestor