



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 29, 2014

Ms. Josette Flores
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2014-01689

Dear Ms. Flores:

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# 516028 (El Paso Reference No. 13-1005-712).

The City of El Paso (the "city") received a request for the animal control report for a specified incident. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

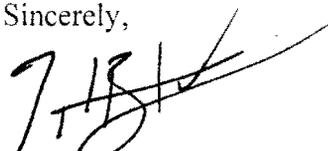
As you acknowledge, the city failed to comply with the deadlines mandated by section 552.301 in requesting a ruling from this office. Gov't Code § 552.301(b). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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). A compelling reason generally exists when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). You seek to withhold the information at issue under section 552.101 of the Government Code in

conjunction with the common-law informer's privilege. The purpose of the common-law informer's privilege is to protect the flow of information to a governmental body, rather than to protect a third person. Thus, the informer's privilege, unlike other claims under section 552.101, may be waived. *See* Open Records Decision No. 549 at 6 (1990). Therefore, the city's assertion of the informer's privilege does not provide a compelling reason for non-disclosure under section 552.302, and the city may not withhold any portion of the submitted information under section 552.101 on that basis. As you raise no further exceptions to disclosure, the submitted information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/eb

Ref: ID# 516028

Enc. Submitted documents

c: Requestor
(w/o enclosures)