



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 17, 2009

Ms. Heather Stebbins
Assistant City Attorney
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028-2215

OR2009-09922

Dear Ms. Stebbins:

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# 349343.

The City of Kerrville (the "city") received a request for paper or electronic documents involving a named individual.¹ You claim that the requested information is excepted from disclosure under sections 552.101, 552.102, and 552.117 of the Government Code. We have considered the exceptions you claim.

We must address the city's obligations under the Act. Under section 552.301(e), a governmental body receiving a request for information that the governmental body wishes to withhold pursuant to an exception to disclosure under the Act 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. Gov't Code § 552.301(e). As of the date of this ruling, you have failed to submit a copy or representative sample of the

¹As you have failed to submit a copy of the request for information, we take our description from your brief.

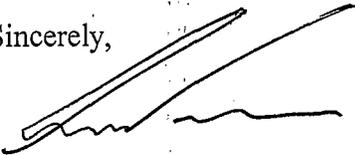
responsive information or a copy of the written request for information. Consequently, we find that the city failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301(e) results in the legal presumption that the 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 Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (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. 319 (1982). Generally, a governmental body can overcome the presumption that information is public under section 552.302 by demonstrating that the information is confidential by law or that its disclosure affects third party interests. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Although sections 552.101, 552.102, and 552.117 of the Government Code can provide compelling reasons for non-disclosure of information under section 552.302, because you have not submitted the requested information for our review, we have no basis for finding it confidential. 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 at (512) 475-2497.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 349343

Enc. Submitted documents

c: Requestor
(w/o enclosures)