



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 10, 2009

Mr. Michael Munk  
County Attorney  
Garza County  
300 West Main  
Post, Texas 79356

OR2009-16004

Dear Mr. Munk:

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# 361092.

The Garza County Sheriff's Office (the "sheriff") received a request for bail bonds and receipts from January 1, 2005 to June 1, 2009; bail record books from September 1, 2004 to June 1, 2009; documents regarding professional bondsmen from September 1, 2002 to June 1, 2009; a list of bondsmen authorized to post bonds in Garza County, and all CDs received for collateral.<sup>1</sup> You claim no specific exceptions under the Act; however, we understand you to claim that the submitted information may contain proprietary information subject to exception. Accordingly, pursuant to section 552.305 of the Government Code, you were required to notify any interested third parties of the request for information and of their right to submit arguments to this office as to why their information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

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<sup>1</sup> As you have not submitted a copy of the written request for information, we take our description from comments and documents submitted by the requestor.

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(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). In addition, pursuant to section 552.301(e) of the Government Code, a governmental body is required to 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. *Id.* § 552.301(e)(1)(A)-(D). The sheriff received the request for information on August 6, 2009. You did not request a ruling from this office or submit the information at issue until September 4, 2009. Furthermore, as of the date of this ruling, you have not raised specific exceptions that apply to the requested information, nor have you submitted a copy of the written request for information or comments explaining why the claimed exceptions apply. Accordingly, we find that the sheriff has failed to comply with the procedural requirements of section 552.301.

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* Gov't Code § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806, 811 (Tex. App.—2007, pet. granted); *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). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). You have not raised any exceptions to disclosure for the requested information, nor have you demonstrated a compelling interest to overcome the presumption that the information at issue is public. *See* Gov't Code §§ 552.301(b), 552.301(e)(2); Open Records Decision Nos. 542 (1990) (concluding that Act places on governmental body burden of establishing which exceptions apply to requested information and why), 532 (1989), 515 (1988), 252 (1980). We further note that, as of the date of this letter, we have not received any arguments from any interested third parties. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information. *See* Gov't Code § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, we conclude that the sheriff must release the requested information in its entirety.

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 "Mack T. Harrison", with a long horizontal flourish extending to the right.

Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/rl

Ref: ID# 361092

Enc. Submitted documents

c: Requestor  
(w/o enclosures)