



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2009

Ms. YuShan Chang  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2009-16959

Dear Ms. Chang:

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#362739.

The Houston Police Department (the "department") received a request for 9 categories of information pertaining to Ticket Number M00909099. You claim that the submitted information is excepted from disclosure under sections 552.101 through 552.147 of the Government Code. We have considered the exceptions you claim.

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(e), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e)(1)(D). You inform us that the department received the request for information on September 10, 2009. However, as of the date of this letter, you have not submitted to this office comments explaining why the stated exceptions apply, nor have you submitted a copy or representative sample of the information requested. Consequently, we find that the department 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 submit to this office the information required in 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). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). You assert the requested information is excepted from disclosure under sections 552.101 through 552.147. In failing to comply with the requirements of section 552.301, you have waived the discretionary exceptions you raised. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 522 (1989) (discretionary exceptions in general). Accordingly, the requested information may not be withheld under any of the claimed discretionary exceptions. Furthermore, by failing to submit any information for our review, we have no basis for finding it confidential under the claimed mandatory exceptions. Therefore, we have no choice but to order you to release the requested information to the requestor. 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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/jb

Ref: ID# 362739

cc: Requestor