



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2009

Mr. Gary A. Scott  
Assistant City Attorney  
City of Conroe  
P.O. Box 3066  
Conroe, Texas 77305

OR2009-17276

Dear Mr. Scott:

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# 363985.

The City of Conroe (the "city") received a request for memoranda or written information regarding a potential lease between the city and The Woodlands Children's Museum and any discussions regarding The Woodlands Children's Museum.<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.131 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We must address the city's obligations under section 552.301 of the Government Code. Within fifteen days of receiving a request, the governmental body must submit to this office several items, including a copy of the original written request for information. *See* Gov't Code § 552.301(e)(1)(A)-(D). We note that the city has only submitted a partial copy of the written request for information for our review. The submitted portion of the request consists of the city's public records request form filled out by the requestor, on which the requestor refers to an attached letter describing the request. The city did not, however, submit the requestor's attached letter describing the request to this office. We also find that the submitted portion of the request does not fully identify the requested information. Therefore, we conclude that because the city did not submit the entire written request for information, the city has failed to comply with the requirements of section 552.301(e).

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

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<sup>1</sup>As you have not submitted a complete copy of the written request for information, we take our description from your brief.

that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information. *See id.* § 552.302; *City of Dallas v. Abbott*, 279 S.W.3d 806, 811 (Tex. App.—Amarillo 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). Normally, a compelling interest is demonstrated when some other source of law makes the information at issue confidential or third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Section 552.131(b) of the Government Code is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision No. 665 at 2 n.5 (discretionary exceptions generally). In failing to comply with section 552.301, the city has waived its claim under section 552.131(b) and, therefore, may not withhold the requested information under this exception. As no further exceptions to disclosure are raised, the submitted information must be released to the requestor.

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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/jb

Ref: ID# 363985

Enc. Submitted documents

c: Requestor  
(w/o enclosures)