



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2013

Ms. Kim Hollar
City of Corinth
2003 South Corinth Street
Corinth, Texas 76210

OR2013-05309

Dear Ms. Hollar:

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# 483183 (ORR#2013-001).

The City of Corinth (the "city") received a request for a specified incident report.¹ You state you have released some information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim.

We must address the city's obligations under the Act. Section 552.301 of the Government Code describes the obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(e) of the Government Code, the governmental body 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. *See* Gov't Code § 552.301(e). You state the city received the present request for information on January 14, 2013. Accordingly the city's fifteen-business-day deadline was February 5, 2013. As of the date of this letter, the city has not submitted to this office a written copy of the request for information or a copy or representative sample of the specific information requested. Accordingly, we conclude the city failed to comply with the requirements of section 552.301(e) of the Government Code.

¹As you have not submitted a copy of the request for information, we take our description from your brief.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See 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); *see also* Open Records Decision No. 630 (1994). 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 information at issue is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 is a discretionary exception to disclosure and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, the city has waived its claim under section 552.108, and none of the requested information may be withheld under this section. Furthermore, because the city has not submitted a copy or representative sample of the specific information requested for our review, we have no basis for finding it confidential by law. Thus, we must order the city to release this information in accordance with section 552.302 of the Government Code. If you believe this 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, toll free at (888) 672-6787.

Sincerely,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/akg

Ref: ID# 483183

c: Requestor