



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2013

Ms. Mariví Gambini
Paralegal
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR2013-07102

Dear Ms. Gambini:

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# 491301 (City ID# PI-13-803).

The City of Irving (the "city") received a request for (1) all e-mails on the city's central backup server matching specified criteria; (2) all e-mails or letters between a named individual and any city employee, official, or council member sent during a specified time period; and (3) all records pertaining to a specified portion of a specified budget. You state the city has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

As you acknowledge, the city failed to comply with the requirements of section 552.301 of the Government Code in asking for a ruling from this office. The submitted information, therefore, is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold any of the information. *See* Gov't Code § 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). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 150 (1977). The city seeks to withhold the submitted information under

section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The purpose of the informer's privilege is to protect the flow of information to a governmental body, rather than to protect a third person. Thus, the informer's privilege, unlike other claims under section 552.101, may be waived. *See* Open Records Decision No. 549 at 6 (1990). Therefore, the city's assertion of the informer's privilege does not provide a compelling reason for non-disclosure under section 552.302, and no portion of the submitted information may be withheld under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the city must release the submitted information.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 491301

Enc. Submitted documents

c: Requestor
(w/o enclosures)