



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 22, 2015

Ms. Kelli A. N. Carlton
Counsel for the Tanglewood Forest Limited District
The Carlton Law Firm, P.L.L.C.
2705 Bee Cave Road, Suite 200
Austin, Texas 78746

OR2015-07743

Dear Ms. Carlton:

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# 560718.

The Tanglewood Forest Limited District (the "district"), which you represent, received a request for all e-mails, text messages, and call logs related to a named director and a specified maintenance company, and all per diem requests submitted by the named director for the entirety of his term. You state you will release some information to the requestor. We have received and considered comments from an interested third party. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

We must address the district's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) 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 id.* § 552.301(e). You state the district received the present request for information January 26, 2015. You state the district sought clarification of the request on January 26, 2015, and received clarification

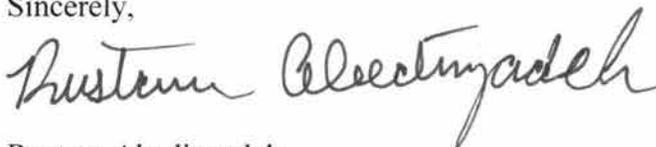
from the requestor on February 3, 2015. Accordingly, February 3 is the date the district is deemed to have received the request for information. *See id.* § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010). However, as of the date of this letter, the district has not raised any exceptions to disclosure for the requested information, or submitted a copy or representative sample of the information requested. Consequently, we find the district failed to comply with section 552.301 of the Government Code.

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 the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *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, 381-82 (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); *see also* Open Records Decision No. 630 (1994). Generally, 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. Open Records Decision No. 150 at 2 (1977). However, as you raise no exceptions to disclosure of the requested information, it 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 560718

c: Requestor

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(w/o enclosures)