



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 23, 2015

Ms. Veronica L. Garcia
Counsel for Hempstead Independent School District
Walsh, Anderson, Gallegos, Green and Trevino, P.C.
10375 Richmond Avenue, Suite 750
Houston, Texas 77042-4196

OR2015-07837

Dear Ms. Garcia:

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# 560861.

The Hempstead Independent School District (the "district"), which you represent, received a request for "any reports, including audits, involving [a named individual] and the plumbing company owned by her husband." You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim.

Initially, we note the requestor seeks reports pertaining to a specified individual and plumbing company. Although you state the district submitted a representative sample of the requested information, the submitted information consists only of information you assert reveals the district is involved in litigation, not information responsive to the subject of the present request. Thus, we find the submitted information is not representative of the requested reports. Accordingly, we must address the district's procedural obligations under section 552.301 of the Government Code.

Section 552.301 describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. 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* Gov't Code § 552.301(e). The district received the request for information on January 26, 2015. However, as of the date of this letter, as previously mentioned, the district has not submitted for our review 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 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, 381-82 (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). Although you raise section 552.103 of the Government Code, this exception does not make information confidential. *See* Gov't Code § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475–76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Accordingly, the district may not withhold any of the requested information under section 552.103 of the Government Code. Thus, we have no choice but to order you to release the requested information in accordance with section 552.302 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.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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 560861

c: Requestor