



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 29, 2015

Ms. Diane L. Lincoln  
Mayor  
Town of Woodloch  
P.O. Box 1379  
Conroe, Texas 77305

OR2015-10560

Dear Ms. Lincoln:

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# 565293.

The Town of Woodloch (the "town") received a request for the names of the employees who received five specified checks. You claim the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim.

We initially address your assertion that the instant request for information is redundant of a previous request made to the town. Section 552.232 of the Government Code outlines the procedures a governmental body must follow in responding to a repetitious or redundant request. Gov't Code § 552.232. You inform us the requestor previously requested a detailed transaction report, which the town released to him. You assert the present request is for the same report. However, we note the requestor is seeking the names of the employees who received five specified checks. Upon review of the report at issue, which you submitted for our review, we note the report does not contain the names of these employees. Therefore, you have failed to demonstrate the instant request for information is a repetitious or redundant request for purposes of the Act. Thus, we will consider your argument against disclosure of the requested information.

Next, we note the submitted information is not responsive to the instant request because it does not consist of the names of the employees who received five specified checks. The town need not release nonresponsive information in response to this request, and this ruling will not address that information.

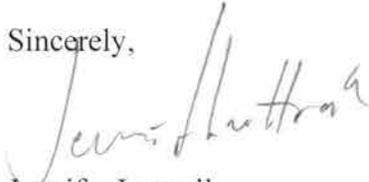
We must address the town's procedural obligations under the Act. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) written comments stating the reasons why the stated exceptions apply 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 inform us the town received this request on March 9, 2015. However, as of the date of this letter, you have not submitted to this office a copy or representative sample of the information requested. Consequently, we find that the town failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of 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 as an exception to disclosure, this exception is discretionary in nature and may be waived. *See 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); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Because the town has failed to comply with the procedural requirements of the Act, the town has waived its claim under section 552.103 of the Government Code. *See* ORD 663 at 5 (untimely request for decision resulted in waiver of discretionary exceptions). Thus, we have no choice but to order the requested information released pursuant to section 552.302.

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](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,

A handwritten signature in cursive script, appearing to read "Jennifer Luttrall".

Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/akg

Ref: ID# 565293

Enc. Submitted documents

c: Requestor  
(w/o enclosures)