



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 8, 2016

Ms. Carah-Beth Bass  
Counsel for Van Zandt County  
Allison, Bass & Magee, L.L.P.  
402 West 12th Street  
Austin, Texas 78701

OR2016-17780

Dear Ms. Bass:

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# 621639.

Van Zandt County (the "county"), which you represent, received a request for "public records that indicate the Van Zandt Precinct 3 Annex is exempt from Government Code [chapter] 411 and permitted to post notice under Penal Code [sections] 30.06 [and] 30.07." You claim the requested information is excepted from disclosure under sections 552.101, 552.107, 552.108, 552.111, and 552.137 of the Government Code. We have considered your arguments.

We must address the county's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed 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. *Id.* § 552.301(e). The county received the instant request for information on May 17, 2016. As of this date, you have not

submitted to this office written comments stating the reasons your claimed exceptions apply, or a copy or representative sample of the information requested. Consequently, we conclude the county failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released. Information that is 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). 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. 630 (1994). Although you claim the requested information is excepted from disclosure under sections 552.107, 552.108, and 552.111 of the Government Code, these are discretionary exceptions that serve to protect a government body's interests and do not provide compelling reasons to withhold information. *See* Open Records Decision Nos. 677 at 8-10 (2002) (attorney work product privilege under section 552.111 may be waived), 676 at 10-11 (2002) (attorney-client privilege under section 552.107(1) may be waived), 177 at 3 (1977) (governmental body may waive statutory predecessor to section 552.108), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the county may not withhold any of the requested information under any of the claimed discretionary exceptions. Although the county also raises sections 552.101 and 552.137 of the Government Code, which are mandatory exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the 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.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 black ink, appearing to read "Ian Lancaster". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ian Lancaster  
Assistant Attorney General  
Open Records Division

IML/akg

Ref: ID# 621639

c: Requestor