



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 13, 2016

Mr. Benjamin V. Lugg
Attorney
San Antonio Housing Authority
P.O. Box 1300
San Antonio, Texas 78295-1300

OR2016-20590

Dear Mr. Lugg:

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# 626349.

The San Antonio Housing Authority (the "authority") received a request for all e-mails that contain two specified search terms. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.104, 552.105, 552.106, 552.107, 552.110, 552.111, 552.112, 552.113, 552.116, 552.117, 552.125, 552.128, 552.130, 552.131, 552.136, 552.137, 552.143, 552.146, 552.147, 552.149, and 552.153 of the Government Code.¹ We have considered the exceptions you claim.

We must address the authority's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e) of the Government Code, 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). You state the authority received the instant request on June 28, 2016.

¹Although you also raise sections 552.021 and 552.301 of the Government Code, we note these provisions are not exceptions to disclosure under the Act. *See Gov't Code* §§ 552.021 (providing public information is available during normal business hours), .301 (providing procedural requirements for requesting ruling).

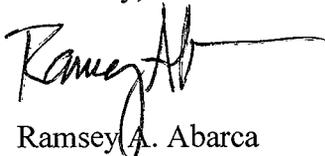
Therefore, we find the authority's fifteen-business-day deadline under section 552.301(e) was July 20, 2016. However, as of the date of this letter, you have not submitted arguments explaining why the stated exceptions apply or a copy or representative sample of the specific information requested. Consequently, we find the authority 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 unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (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); *see also* Open Records Decision No. 630 (1994). Because the authority failed to comply with the requirements of the Act, the authority has waived all of its claimed discretionary exceptions to disclosure. *See* Open Records Decision No. 665 at 2 n.5 (2000) (untimely request for decision results in waiver of discretionary exceptions). Although the authority raises 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 of the Government Code. If you believe the information is confidential and may not be lawfully 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, 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 626349

c: Requestor