



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2017

Mr. M. Matthew Ribitzki
Deputy City Attorney
City of Burleson
141 West Renfro Street
Burleson, Texas 76028

OR2017-00702

Dear Mr. Ribitzki:

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# 641332 (Burleson ORR No. 33).

The City of Burleson (the "city") received a request for the name and information of a specified complainant. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor only seeks the name of and information of a specified complainant. Accordingly, the submitted information that does not consist of the complainant's name and information is not responsive to the instant request. The city need not release nonresponsive information in response to this request, and this ruling will not address that information.

We must address the obligations of the city 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(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* Gov't Code § 552.301(b). The city received the request for information on October 14, 2016. Accordingly, you were required to provide the information required by section 552.301(b) by October 28, 2016. However, the envelope in which you requested a decision was meter-marked October 31, 2016. *See id.* § 552.308 (describing rules for calculating submission

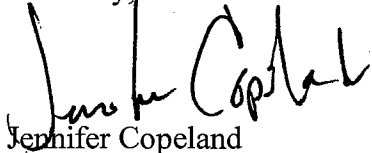
dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the city failed to comply with the requirements of section 552.301 in requesting this decision from our office.

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 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). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing the information is made confidential by another source of law or affects third-party interests. *See* ORD 630. The city seeks to withhold the responsive information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The purpose of the common-law informer's privilege is to protect the flow of information to a governmental body, rather than to protect a third person. Thus, the informer's privilege, unlike other claims under section 552.101, may be waived. *See* Open Records Decision No. 549 at 6 (1990). Therefore, the city's assertion of the informer's privilege does not provide a compelling reason for non-disclosure under section 552.302, and the city may not withhold the information at issue under section 552.101 of the Government Code in conjunction with the informer's privilege. As no further exceptions to disclosure have been raised, the responsive information must be released.

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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 641332

Enc. Submitted documents

c: Requestor
(w/o enclosures)