



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2017

Mr. Jorge L. Trevino, Jr.
Assistant County Attorney
Webb County Attorney's Office
P. O. Box 420268
Laredo, Texas 78042-0268

OR2017-11153

Dear Mr. Trevino:

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# 658887.

Webb County (the "county") received two requests for all applications for a specified position, including those of seven named individuals, and all public information requests concerning the same during a specified time period. You claim the requested information is excepted from disclosure under sections 552.102, 552.117, 552.1175, and 552.147 of the Government Code.¹ You also state you will notify the applicants implicated by the requests of the requests for information and of their rights to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.304 (providing that interested third party may submit comments stating why information should or should not be released). We have considered the raised exceptions.

We must address the county's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to

¹We note you have raised section 552.024 of the Government Code for some of the requested information. Section 552.024 is not an exception to public disclosure under chapter 552 of the Government Code. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain information relating to the current or former official or employee that is held by the employing governmental body. *See* Gov't Code § 552.024.

decide whether requested information is excepted from public disclosure. Pursuant to subsection 552.301(b), within ten days after receiving a written request the governmental body must request a ruling from this office and state the exceptions to disclosure that apply. *See id.* 552.301(b). Additionally, subsection 552.301(e) requires a governmental body to 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 id.* § 552.301(e). The county states it received the first request for information on February 24, 2017. Accordingly, the ten and fifteen-business-day deadlines were March 10, 2017 and March 17, 2017, respectively. However, you did not request a decision from this office until March 15, 2017. Additionally, as of the date of this letter, we have not received arguments from the county explaining why the claimed exceptions apply or a copy of the information requested. Consequently, we find the county failed to comply with subsections 552.301(b) and 552.301(e) of the Government Code.

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, 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). Although the county raises 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. Additionally, although you claim third party interests are at stake, which can provide a compelling reason to withhold information, we have not received comments from any of the interested third parties explaining release of the requested information would affect their interests. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information 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, 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 "Emily Kunst". The signature is written in a cursive style with a horizontal line extending from the end.

Emily Kunst
Assistant Attorney General
Open Records Division

EK/tdw

Ref: ID# 658887

c: 2 Requestors