



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 13, 2017

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2017-21011

Dear Mr. Miles:

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# 675566.

The Health and Human Services Commission (the "commission") received a request for any contracts between a named individual and the commission, documents regarding rent payments made by the named individual, and reports or assessments of fair market value for lease of a room at a specified hospital. You claim the submitted information is excepted from disclosure under sections 552.101 through 552.156 of the Government Code. We have considered the exceptions you claim.

We must address the commission's procedural obligations under the Act. Section 552.301 of the Government Code prescribes the procedures 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 that receives a request for information it wishes to withhold under an exception to disclosure must 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. *Id.* § 552.301(e). The commission states it received the instant request for information on

June 23, 2017. You state the commission was closed on July 4, 2017. You do not inform us the commission was closed for any additional business days between June 23, 2017 and July 17, 2017. Accordingly, you were required to provide the information required by section 522.301(e) by July 17, 2017. However, as of this date, the commission has 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 commission 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 (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). Although the commission 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. 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,



D. Michelle Case
Attorney
Open Records Division

DMC/eb

Ref: ID# 675566

c: Requestor