



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 1, 2019

Mr. Frank J. Garza  
Attorney for the City of Poteet  
Davidson, Troilo, Ream, & Garza, P.C.  
601 Northwest Loop 410, Suite 100  
San Antonio, Texas 78216-5511

OR2019-18022

Dear Mr. Garza:

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# 773052.

The City of Poteet (the "city"), which you represent, received a request for information pertaining to its relationship with a named individual. You claim the requested information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim.

We must address the city's 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. 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. Gov't Code § 552.301(e). The city received the request for information after business hours on April 5, 2019. Thus, for the purposes of section 552.301, the city received the request on April 8, 2019. However, as of the date of this letter, you have not submitted to this office written comments stating the

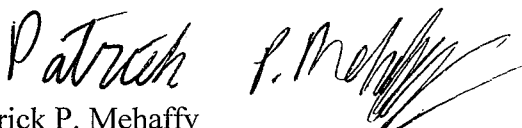
reasons why the stated exception applies or a copy or representative sample of the information requested. Accordingly, we conclude the city failed to comply with the requirements of section 552.301(e).

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 you raise an exception to disclosure, because you failed to submit any portion of it to us for our review, we have no basis for concluding that the requested information is 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 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,

  
Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/be

Ref: ID# 773052

c: Requestor