



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 16, 2019

Ms. Karen Stack
Deputy City Secretary II
City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059

OR2019-22867

Dear Ms. Stack:

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# 782879 (ORR# 19-06-18).

The Brenham Police Department (the "department") received two requests from the same requestor for specified categories of information, including information about department officers. The department claims the requested information is excepted from disclosure under sections 552.101 through 552.152 of the Government Code. We have considered the claimed exceptions.

The department argues the request for public information at issue was withdrawn by operation of law because the requestor did not timely respond to a cost estimate for providing the requested records. However, we find the cost estimate does not comply with the requirements of section 552.2615 of the Government Code. *See* Gov't Code § 552.2615(a). Accordingly, we conclude the requestor's public information request has not been withdrawn by operation of law, and the city may not withdraw its request for a ruling on that basis. Therefore, we will consider the district's argument against disclosure of the requested information.

Next, we must address the procedural obligations of the department under section 552.301 of the Government Code regarding the requested information. Section 552.301 prescribes the procedures that 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)(1)(D), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or

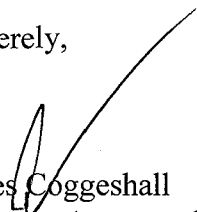
representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(D). The department received the request for information on June 7, 2019. However, as of the date of this letter, the department has not submitted a copy or representative sample of the requested information. Therefore, the department failed to comply with the procedural requirements mandated by 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 the department raises exceptions to disclosure, because it has 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, be released pursuant to section 552.302. If the department believes the information may not lawfully be released, it 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James Coggeshall
Assistant Attorney General
Open Records Division

JLC/gw

Ref: ID# 782879

c: Requestor