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ATTORNEY GENERAL OF TEXAS

September 13, 2019

Ms. Paige H. Saenz  
Counsel for the City of Leander  
The Knight Law Firm, L.L.P.  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

OR2019-25707

Dear Ms. Saenz:

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# 786111.

The City of Leander (the "city") received a request for all communications between a named city employee and specified individuals. You claim the requested information is excepted from disclosure under sections 552.101 through 552.154 of the Government Code. We have considered the exceptions you claim.

Initially, we note the requested information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2019-23438 (2019) and 2019-23599 (2019). We understand there has been no change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office in Open Records Letter Nos. 2019-23599 and 2019-23438, the city may continue to rely on these prior rulings as previous determinations and withhold identical information in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the current request is not encompassed by the prior rulings, we will consider the exceptions you raise.

Next, we must address the city's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public

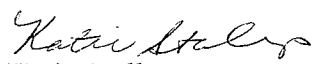
disclosure. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy 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 on June 25, 2019. As of the date of this letter, you have not submitted to this office a copy or representative sample of the information requested or arguments as to why any of the claimed exceptions to disclosure apply. Accordingly, we conclude the city 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, 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 city also 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 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 <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,

  
Katie Stallcup  
Attorney  
Open Records Division

AKS/be

Ref: ID# 786111

c: Requestor