



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 1, 2019

Mr. Anthony S. Corbett
Counsel for the Travis County Municipal Utility District No. 22
McLean & Howard, L.L.P.
901 South MoPac Expressway, Suite 225
Austin, Texas 78746

OR2019-30932

Dear Mr. Corbett:

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# 794717.

The Travis County Municipal Utility District No. 22 (the "district"), which you represent, received a request for information from specified board meetings.¹ You state the district released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the district twice sought clarification from the requestor for part of the request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You inform us the district has yet to receive a response to the second request for clarification. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561

¹ As you failed to submit a copy of the request to our office, we take our description from your brief to our office.

(1990). In this instance, the district submitted information it believes is responsive to the request and made arguments against disclosure of this information. Thus, we assume the district made a good-faith effort to relate the request to information it holds. However, the district has no obligation at this time to release any additional responsive information for which it has not received clarification. If the requestor responds to the request for clarification, the district must seek a ruling from this office before withholding any additional responsive information from the requestor. *See* Gov't Code § 552.222(b); *City of Dallas*, 304 S.W.3d at 387.

Next, we must address the district'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 district received the request for information on August 21, 2019. You state the district sought and received clarification of the request on August 23, 2019. *See id* § 552.222. However, as of the date of this letter, you have not submitted a copy of the written request for information. Accordingly, we conclude the district failed to comply with the requirements of section 552.301(e).

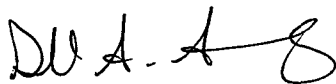
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information 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). You assert section 552.103 of the Government Code for the submitted information. However, we find you failed to establish a compelling reason to address your argument under this exception. Accordingly, the district must release the submitted information.

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,

A handwritten signature in black ink, appearing to read "G. Arismendez". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 794717

Enc. Submitted documents

c: Requestor
(w/o enclosures)