



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2019

Mr. Carl R. Allred
Counsel for the City of Rosenberg
Randle Law Office Ltd., L.L.P.
820 Gessner, Suite 1570
Houston, Texas 77024-4494

OR2019-34090

Dear Mr. Allred:

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# 799568.

The City of Rosenberg (the "city"), which you represent, received a request for all e-mails sent by a specified city official during a stated period of time.¹ You state the city has released some information to the requestor. You claim the remainder of the requested information is excepted from disclosure under section 552.101 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(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records 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. *See id.* § 552.301(e). In this instance, you state the city received the present request for information on July 4, 2019. We note the city was closed on July 4, 2019, in observance

¹ As you did not submit a copy of the requestor's written request for information, we take our description from your brief to this office.

of Independence Day. This office does not count the date the request was received or holidays for purposes of calculating a governmental body's deadlines under the Act. Accordingly, the city was required to provide the information required by subsection 552.301(b) by July 19, 2019, and the information required by subsection 552.301(e) by July 26, 2019. However, the envelope in which the city provided the information required by section 552.301(b) was postmarked September 24, 2019. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Further, as of the date of this letter, the city has not submitted for our review a copy or representative sample of the information requested or a copy of the written request for information. Consequently, we find the city has failed to comply with the requirements of section 552.301 of the Government Code.

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 assert the information at issue is excepted from disclosure under section 552.101 of the Government Code, because the city has not submitted the requested information for our review, we have no basis for finding any of the information at issue excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302. If you believe the information 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,



Blake Brennan
Assistant Attorney General
Open Records Division

BBX/rm

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Enc. Submitted documents

c: Requestor
(w/o enclosures)