



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 5, 2020

Ms. Dawn Roberts
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2020-25053

Dear Ms. Roberts:

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# 847751 (COA PIA Req. 103444).

The City of Arlington (the "city") received a request for certain personnel records pertaining to two named individuals during a specified time period. The city claims the requested information is excepted from disclosure under sections 552.101 through 552.156 of the Government Code. We have considered the exceptions the city claims.

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. *See* Gov't Code § 552.301. 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. *Id.* § 552.301(e). The city received the request for information on July 17, 2020. The city does not inform us it was closed for any business days between July 17, 2020 and August 7, 2020. 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 section 552.301(e) by

August 7, 2020. However, as of this date, the city has not submitted to this office written comments stating the reasons why its claimed exceptions apply, or a copy or representative sample of the information requested. Consequently, we conclude the city failed to comply with the procedural requirements mandated by 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 the city 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 released pursuant to section 552.302 of the Government Code. If the city 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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/gw

Ref: ID# 847751

Enc. Submitted documents

c: Requestor
(w/o enclosures)