



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2020

Mr. Neal Falgoust
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767

OR2020-26542

Dear Mr. Falgoust:

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# 850824 (ORR# C075117).

The City of Austin (the "city") received a request for information pertaining to a specified project. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

We must address the procedural obligations of the city under section 552.301 of the Government Code, which 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(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). The city informs us it received the request for information on July 30, 2020, and does not state it was closed on any subsequent date. Thus, the city's ten-business-day deadline to request a ruling was August 13, 2020. However, the city informs us it placed the ruling request in the mail on August 14, 2020, and we note the envelope containing the request for a ruling from this office is postmarked

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

August 14, 2020. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Therefore, the city failed to comply with the procedural requirements mandated by 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 unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). We find the city has failed to establish a compelling reason to address section 552.104 of the Government Code. Therefore, the city 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/gw

Ref: ID# 850824

Enc. Submitted documents

c: Requestor
(w/o enclosures)