



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 9, 2022

Mr. Mark E. Sossi
Counsel for the City of San Benito
Troiani and Sossi, P.L.L.C.
611 East Washington Street
Brownsville, Texas 78520

OR2022-13202

Dear Mr. Sossi:

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# 944394.

The City of San Benito (the "city"), which you represent, received a request for a specified study.¹ You claim the submitted information is excepted from disclosure under sections 552.106, 552.111, and 552.116 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

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 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

¹ As you have not submitted a copy of the request for information, we take our description of the information requested from your brief and the submitted information.

² Although you do not cite to section 552.116 of the Government Code in your brief to this office, we understand you to raise this section based on your arguments. In addition, although you also raise section 552.115 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

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). As of the date of this letter, you have not submitted a copy of the written request for information. Consequently, we conclude the city failed to comply with the procedural requirements of section 552.301(e) 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 claims the submitted information is excepted from disclosure under sections 552.106, 552.111, and 552.116 of the Government Code, we find you have failed to establish a compelling reason to address your arguments under these sections. Therefore, the city may not withhold any portion of the submitted information on these bases. As no further exceptions to disclosure have been raised, 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/mo

Ref: ID# 944394

c: Requestor