



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 16, 2022

Mr. Santos Hinojosa
Assistant District Attorney
Brazoria County
111 East Locust, Suite 408 A
Angleton, Texas 77515

OR2022-13892

Dear Mr. Hinojosa:

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# 948040 (ORR# 22-0019).

Brazoria County (the "county") received a request for information pertaining to named individuals. The county claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

We must address the procedural obligations of the county 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 county states it received the request for information on January 3, 2022, and asked for clarification of the request on January 14, 2022 (the "first clarification"). The county informs us it received a response to the first clarification on January 19, 2022. Thus, as a result of the first clarification, the deadline of the county to request a ruling under section 552.301(b) was February 2, 2022. *Cf. City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (after requesting clarification within ten-business-day deadline, governmental body timely submitted request for opinion within ten business days after receiving clarification). However, the county informs us it notified the requestor on February 24, 2022, that it had discovered more responsive information and asked for additional clarification of the request (the "second clarification"). The county received the requestor's response to the second clarification on February 28, 2022. Because

the county did not request the second clarification until after the ten-business-day deadline resulting from the first clarification had passed, the statutory deadlines under section 552.301 were not reset by the second clarification. *Cf. id.* The envelope containing the request for a ruling from this office is postmarked March 9, 2022. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Upon review, we find the county has failed to establish it complied with the procedural requirements mandated by section 552.301(b).

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 county has failed to establish a compelling reason to address section 552.108 of the Government Code. Therefore, the county may not withhold the submitted information on that ground. Accordingly, the county 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/be

Ref: ID# 948040

Enc. Submitted documents

c: Requestor
(w/o enclosures)