



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 29, 2022

Mr. Tony Torres
Counsel for the Donna Independent School District
Law Office of Tony Torres, P.L.L.C.
118 East Cano
Edinburg, Texas 78539

OR2022-18855

Dear Mr. Torres:

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# 956245.

The Donna Independent School District (the "district"), which you represent, received a request for certain district insurance and liability coverage policies effective during a stated period of time. You claim the requested information is excepted from disclosure under sections 552.110 and 552.1101 of the Government Code.¹ We also understand the district notified Acrisure, LLC d/b/a Carlisle Insurance ("Carlisle") of the request for information and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Carlisle. We have considered the submitted arguments.

We must address the district'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

¹ Although you also raise section 552.0222 of the Government Code, we note this section is not an exception to disclosure. Rather, section 552.0222 enumerates categories of information that may not be withheld under either section 552.110 or section 552.1101 of the Government Code. *See* Gov't Code § 552.0222.

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, the district received the present request for information on December 10, 2021. The envelope in which the district provided the information required by section 552.301(b) was postmarked April 21, 2022. *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 district has not submitted for our review comments stating why the claimed exceptions apply or a copy or representative sample of the information requested. Consequently, we find the district 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 and Carlisle assert the requested information is excepted from disclosure, because the district 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 of the Government Code. 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/mo

Mr. Tony Torres - Page 3

Ref: ID# 956245

c: Requestor

c: Third Party