



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

November 11, 1974

The Honorable Richard Gibson
Director
University of Texas System Law Office
601 Colorado St.
Austin, Texas 78701

Open Records Decision No. 56

Re: University System files
on leases.

Dear Mr. Gibson:

You advise us that the University of Texas System Law Office has received a request from two aides of State Representative Joe Pentony for "access to all materials and leases for the use of U. T. lands outside the Permanent University Fund except for sealed bids involved in future bidding." That request has been forwarded to us for a decision under the Open Records Act, Article 6252-17a, V. T. C. S.

In Open Records Decision No. 44 (1974), we considered the request of State Representative Joe Pentony for access to the same information sought here. At that time we held the University of Texas System had failed to forward the request to us within ten days as required by Section 7(a) of the Open Records Act. And we further stated:

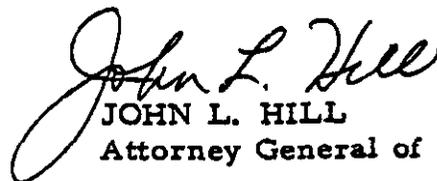
The effect of an agency's failure to comply with Section 7(a) is to create an added presumption that the information in question is public. "Ordinarily, this presumption will not be overcome unless there is a compelling demonstration that the information requested should not be released to the public, as might be the case, for instance, if it is information deemed confidential by some other source of law." Open Records Decision No. 26 (1974). (Emphasis added).

A compelling demonstration has not been made for the bulk of the requested materials; but our study of the sample files and a review of applicable statutes suggests circumstances under which some of the requested information might be confidential by law and that, a compelling demonstration may be made for not publicly releasing some of the information requested.

The Board of Regents of the University System has plenary power to "sell, lease, and otherwise manage, control, and use the lands in any manner and at prices . . . the board deems best . . . not in conflict with the constitution. However, the land shall not be sold at a price less per acre than that at which the same class of other public land may be sold under the statutes." Section 65.39, Vernon's Texas Education Code. Should the Board see its statutory duty to be one of conducting sealed bidding, then we believe that information pertaining to Board authorized appraisals, to the price which the Board deems reasonable, or to the substance of the sealed bids themselves, must be kept confidential to ensure the integrity of the competitive bidding. We advise the University to release all other information as to which no compelling demonstration has been made.

In Open Records Decision No. 44 we held the material requested to be public information due to the presumption created by section 7(a). When information is adjudged to be public information, it matters not who requested access. Access should be granted to any member of the public seeking it.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:



C.J. CARL, Staff Legislative Assistant



DAVID M. KENDALL, Chairman
Opinion Committee

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