



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 4, 1992

Ms. Sedora Jefferson
General Counsel
State of Texas Department of Commerce
P. O. Box 12728
Austin, Texas 78711-2728

OR92-44

Dear Ms. Jefferson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14737.

The Texas Department of Commerce received two requests for information from Ms. Gene Merchant under the Open Records Act. The department received the first open records request on December 16, 1991, and the second on or about January 14, 1992. You requested an open records decision from this office on January 23, 1992. Consequently, although you sought an open records decision in a timely manner for the January 14 request, you failed to request a decision within the 10 days required by section 7(a) of the act for the December 16 request.

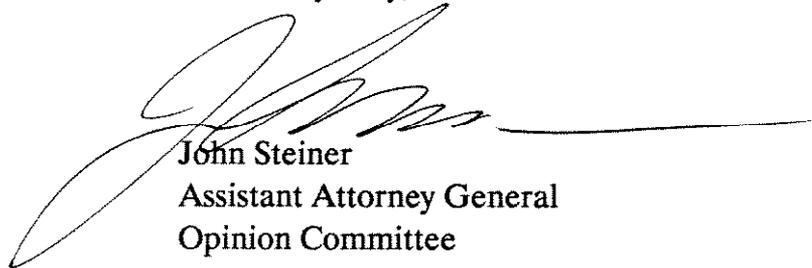
Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App. - Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.*

You have not shown compelling reasons why the information at issue in the December 16 request should not be released. This information is presumed to be public and must be released.

This office will, however, consider your claims regarding the January 14 request in a subsequent open records ruling. You have not, however, sent us copies of the information that you believe is excepted from disclosure. Section 7 of the Open Records Act requires you to submit this information to us; moreover, we cannot determine whether the information is subject to a particular exception without reviewing it. If the documents are numerous and repetitive, you may submit representative samples. We must receive the information within 14 days of the date of this letter, or the discretionary exceptions will be deemed waived and such information that is not confidential by law will be available to the public.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-44.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/lcd

Ref: ID# 14737

cc: Gene Merchant
4404 Flagstaff Drive
Austin, Texas 78759