



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1993

Ms. Gretchen Kuehn Bohnert
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR93-371

Dear Ms. Bohnert:

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# 19478.

The City of Houston (the "city") has received a request for traffic light timing diagrams for a specific intersection that was the site of a traffic accident.¹ You contend the requested information is excepted under section 3(a)(3) of the Open Records Act.

Section 7(a) of the Open Records Act provides that:

If a governmental body receives a written request for information which it considers within one of the exceptions stated in Section 3 of this Act, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, *no later than ten calendar days*, after receiving a written request *must request a decision from the attorney general* to determine whether the information is within that exception. *If a decision is not so requested, the information shall be presumed to be public information.* [Emphasis added.]

¹We note that the letter dated March 3, 1993 from Barbara L. Hachenburg is not a request for records. The letter is a request for answers to specific factual questions and at least one question could require legal research to provide an answer. Governmental bodies are not required to perform legal research or to answer general inquiries. Open Records Decision Nos. 563 at 8, 555 (1990). Accordingly, we will only address the request dated January 20, 1993 from Philip D. Heermann, Ph. D.

Where requests are not made within ten days, the information is presumed to be public. Open Records Decision No. 319 (1982). A governmental body must show a compelling reason to overcome this presumption, *i.e.*, that the information is confidential under some other source of law or that third-party interests are at stake. *Id.*; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). The governmental interests protected by sections 3(a)(3) and 3(a)(11) are generally not compelling enough to overcome the heightened presumption of openness. Open Records Decision No. 473 (1987) at 3.

The city received the request from Philip D. Heermann, Ph.D., on February 5, 1993. The letter requesting an open records ruling from this office is dated March 17, 1993.² Because you have not demonstrated a compelling reason to withhold this information, we conclude that you have waived the right to claim that the information is protected by section 3(a)(3). Accordingly, you must release the requested information.

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 contact this office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/LBC/jmn

Ref.: ID# 19478

Enclosures: submitted documents

²We note that although the request was received by the Claims Division of the Personnel Department of the City of Houston on February 5, 1993, you state that the Legal Department did not receive the request until March 11, 1993. Section 7(a) of the act requires a governmental body to seek a ruling from this office within ten days after receiving a request for records. It is immaterial under section 7(a) when a governmental body's legal counsel is notified about a pending request. The ten-day period begins to run upon receipt of the request *by the governmental body*. *See generally* Open Records Decision Nos. 576 (1990); 497 (1988).

cc: Mr. Philip D. Heerman, Ph.D
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8911 Capital of Texas Highway North
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Ms. Barbara L. Hachenburg
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(w/o enclosures)