



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 14, 1995

Ms. Tiffany K. Dao
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR95-1416

Dear Ms. Dao:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 28749.

The City of Dallas (the "city"), through its police department, has received a request for information relating to a complaint filed against a city police officer. Specifically, the requestor seeks a certain report generated in connection with this complaint. You object to releasing some of the requested information and claim that sections 552.108 and 552.111 of the Government Code except it from required public disclosure.

Section 552.301(a) of the Government Code provides:

A governmental body that receives a written request for information that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision within a reasonable time but not later than the 10th calendar day after the date of receiving the written request.

Section 552.302 provides:

If a governmental body does not request an attorney general decision as provided by Section 552.301(a), the information requested in writing is presumed to be public information.

You advise us that the police department received the request for information on August 18, 1994. You requested a determination of this office by letter dated August 31, 1994. On the basis of these facts, we conclude that you have failed to request a decision within the ten-day period section 552.301(a) of the Government Code mandates.

When a governmental body fails to request a decision within ten 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, 381 (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). The governmental body must show a compelling reason to withhold the information to overcome this presumption. See *Hancock*, 797 S.W. 2d at 381. A governmental body can overcome the presumption of openness by demonstrating compelling reasons why it should not release the requested information to the public. A compelling reason is normally that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 (1977) at 2.

We have examined the information submitted to us for review. You have cited no authority making this information confidential, nor are we aware of any such authority. Moreover, you have not demonstrated that interests other than the city's are at stake here. See Open Records Decision No. 586 (1991) (concluding that district attorney could withhold information under section 552.108 of the Government Code because release implicated Department of Public Safety's interests). We conclude, therefore, that you have not made a compelling demonstration that the city should not release the requested information to the public. Accordingly, the city must release the requested information in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/GCK/rho

Ref.: ID# 28749

Enclosures: Submitted documents

cc: Mr. Reginald Thompson
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(w/o enclosures)

