



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 15, 1996

Mr. Robin Collins
Lewis & Collins
1220 Montana Avenue
El Paso, Texas 79902

OR96-0709

Dear Mr. Collins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38940.

The Ysleta Independent School District (the "district"), which you represent, received a request for the home address of two students who attend district schools. You requested an attorney general decision relating to this request for information, which was received by our office on February 22, 1996. In this request for an attorney general decision, you ask whether the students' address is excepted from disclosure under a court order.¹ You did not, however, submit to our office a copy of the order.

Pursuant to section 552.303(c) of the Government Code, on March 1, 1996, our office notified you by letter sent via facsimile that you had failed to submit information necessary to render a decision, specifically, a copy of the court order referenced in your February 22, 1996 correspondence to our office. We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), *id.*, failure to comply would result in the legal presumption that the requested information is public information.

You have not provided our office with the information that was requested in our March 1, 1996 notice to you. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental

¹You do not assert that this information is protected from disclosure under the Family Educational Rights and Privacy Act of 1974 ("FERPA"). The requestor in this instance is the father of the students and the information appears to be "directory information." See 20 U.S.C. §§ 1232g(a)(1), (5).

body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). Absent a compelling reason why the information at issue should not be released, the requested information is presumed to be public and must be released.

A court order specifically making the requested information confidential, however, would constitute a compelling reason that would overcome the presumption of openness. *See* Open Records Decision No. 150 (1977) (fact that information is confidential pursuant to some other source of law is compelling reason to overcome presumption of openness). Thus, if a court order specifically prohibits the district from releasing the requested information, the district must comply with the court order and may not release the information. Additionally, an individual's address may be excepted from disclosure under section 552.101 "under truly exceptional circumstances" of an imminent threat of physical danger. Open Records Decision No. 169 (1977) at 6; *see also* Open Records Letter No. OR96-0708 (1996). Because you did not submit sufficient information to our office, we are unable to determine whether the requested information is confidential either by court order or under section 552.101. Please note that distribution of confidential information constitutes a criminal offense, as does the failure to provide access to public information. *See* Gov't Code §§ 552.352-.353.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 38940

cc: Mr. Jesus Javier Rojo
200 West Schuster
El Paso, Texas 79901