



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1996

Mr. David A. Miller
Miller & Lehman
1820 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201-3340

OR96-1339

Dear Mr. Miller:

The Mountain Peak Water Supply Corporation (the "corporation"), which you represent, asks this office to reconsider its decision in Open Records Letter No. 96-0650 (1996) (referred to as "OR96-0650"). Your request for reconsideration was assigned ID# 40617.

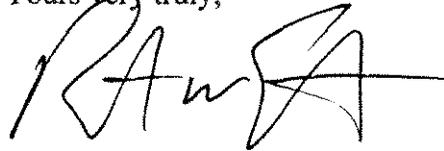
In OR96-0650, this office concluded that the corporation could not withhold requested information relating to legal fees paid by the corporation. Although the corporation argued that the information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code, this office found that the corporation had failed to timely request an attorney general's decision pursuant to section 552.301. Thus, the requested information was presumed public pursuant to section 552.302. Because the corporation failed to demonstrate a compelling reason to overcome the presumption of openness, this office concluded that the corporation must release the requested information.

In your request for reconsideration, you assert that because the requestor in this situation is an adverse party in a pending lawsuit with the corporation, and because the requested information relates to pending litigation, releasing the information would interfere with the "interests and integrity of the judicial process." You also argue that the corporation was entitled to rely upon certain "previous determinations" and was not required to request an attorney general's decision pursuant to section 552.301.

We decline to reconsider OR 96-0650 for the reasons stated in that opinion. While we agree that chapter 552 of the Government Code is not intended to be used as a substitute for discovery in litigation, Open Records Decision No. 551 (1990), a governmental body may protect its litigation interests by timely requesting an attorney general's decision pursuant to section 552.301 and raising the applicable exceptions to disclosure. *See id.*

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,

A handwritten signature in black ink, appearing to read 'RWS', with a long horizontal flourish extending to the right.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref.: ID# 40617

cc: Mr. J. B. Clopton, Jr.
Ms. Barbara Ann Clopton
P.O. Box 368
Venus, Texas 76084