



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 4, 1996

Mr. Rick Perry
Commissioner
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR96-1824

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101597.

The Texas Department of Agriculture (the "department") received a request for information relating to complaint number 05-96-0025. You contend that the requested information is excepted from disclosure pursuant to section 552.103 of the Government Code.

Chapter 552 of the Government Code imposes a duty on a governmental body seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

You state that the department received the request for information on August 2, 1996. However, you did not request a decision from this office until August 15, 1996, more than ten days after the department received the request. Therefore, unless information is confidential by law or other compelling reasons exist as to why the information should not be made public, you must

release the information.¹ Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 101597

Enclosures: Submitted documents

cc: Mr. Lionel Cantu, Jr.
Rt. 2 Box 525
Raymondville, Texas 78580
(w/o enclosures)

¹Section 552.103 is a discretionary exception that a governmental body waives by failing to timely raise it within ten days. *See* Open Records Decision No. 541(1990).