



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 3, 1997

Mr. Terrence S. Welch  
Vial, Hamilton, Koch, & Knox, L.L.P.  
1717 Main Street, Suite 4400  
Dallas, Texas 75201

OR97-0005

Dear Mr. Welch:

You seek reconsideration of Open Records Letter No. 96-1722 (1996), in which this office determined that the Texas Open Records Act, Government Code chapter 552, required the City of Flower Mound (the "city") to make certain information available to the public. We have assigned your request for reconsideration ID#102654.

The city, which you represent, received requests from two individuals for the probable cause affidavit and arrest warrant for the arrest of Mary Elizabeth Womack, which you sought to withhold from disclosure under sections 552.103(a) and 552.108 of the Government Code. We concluded in Open Records Letter No. 96-1722 (1996) that neither section 552.103(a) nor section 552.108 protected the requested information from public disclosure.

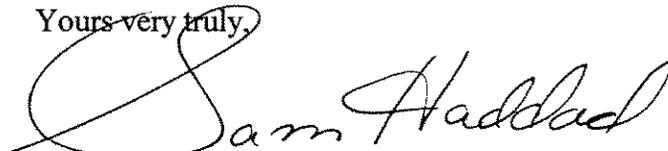
Specifically, we based our ruling in Open Records Letter No. 96-1722 (1996) on your assertions that the opposing parties had obtained copies of the requested reports and the requested documents had been filed with the court in a civil lawsuit. We stated that in situations in which the opposing parties in the litigation have seen or had access to the requested information, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). Furthermore, we noted that since the requested documents had become part of the public record they could not be withheld under section 552.108. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57-58 (Tex. 1992). We therefore concluded that the city could not withhold the requested information based on sections 552.103 and 552.108.

We have examined your request for reconsideration and decline to change the outcome of our original ruling. Therefore, we affirm our ruling in Open Records Letter No.

96-1722 (1996), and the city may not withhold the requested information under sections 552.103 and 552.108 of the Government Code.

We are resolving this matter with this 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 may 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 that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/cbh

Ref.: ID#102654

Enclosures: Submitted documents