



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 11, 1997

Mr. Rusty Renfroe, CLA
Paralegal
City Attorney's Office
City of Longview
P.O. Box 1952
Longview, Texas 75606-1952

OR97-0539

Dear Mr. Renfroe:

You seek reconsideration of Open Records Letter No. 97-0194 (1997), in which this office determined that the City of Longview (the "city") had not provided satisfactory proof that the city timely requested an opinion from this office. We declined there to reconsider our ruling in Open Records Letter No. 96-1880 (1996), which held that the city had not met its obligation of requesting an opinion from this office within ten calendar days from the city's receipt of a request for information and that the information was presumed to be public. We have assigned your request for reconsideration ID# 105280.

In your original request for a ruling from this office, the city's request was untimely on its face, and the city submitted no proof showing otherwise. Section 552.308 of the Government Code provides:

When this subchapter requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class United States mail properly addressed with postage prepaid and

1. it bears a post office cancellation mark indicating a time within the period, or
2. the person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail within the period.

When you submitted your first request for reconsideration, the city was given an opportunity to furnish satisfactory proof. However, in attempting to comply with the second portion of section 552.308, the city submitted a sworn affidavit from the city's legal assistant that attested to a date that failed to rebut the untimely submission of the request for a decision. Consequently, we decline any further reconsiderations of our rulings in Open Records Letter Nos. 96-1880 (1996) and 97-0194 (1997). If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 105280

cc: Mr. José Portela
Law Offices of James H. Anderson
1610 North Fitzhugh
Dallas, Texas 75204-4899