



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 28, 1997

Ms. Kathryn H. West
Assistant City Attorney
Dallas Municipal Building
Dallas, Texas 75201

OR97-1229

Dear Ms. West:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106580.

The City of Dallas (the "city") asked this office to render a decision as to whether certain records must be publicly disclosed. Section 552.301(a) provides that a governmental body that receives a written request for information that it seeks to withhold from public disclosure and that it considers to fall within an exception under chapter 552 must ask for a decision from this office. Section 552.301(b) provides that when the governmental body requests a decision from this office, the governmental body must provide to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office a copy of the written request for information.

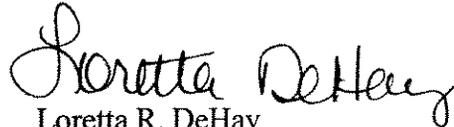
In accordance with 552.303(c) of the Government Code, this office notified you by facsimile on April 11, 1997, that you had failed to submit a copy of the written request for records, as required by section 552.301(b). We requested that you provide a copy of the written request to our office within seven days from the date of receipt of the notice. The notice further stated that, under section 552.303(e), failure to supply this document would result in the legal presumption that the information at issue was presumed public.

Since you have failed to supply the information needed for this office to render a decision, as provided under section 552.303(e), the information that is the subject of this request for information is presumed to be public information. The presumption of openness can be overcome only by a demonstration that the information at issue is confidential by law or that other compelling reasons exist as to why the information should not be made public. *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); *see also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). As you have not provided this office with a compelling reason, we have no basis on which to conclude the city may withhold the information at issue.

If you have any questions regarding this matter, please contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RHS/ch

Ref.: ID# 106580

Enclosures: Submitted document