



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 15, 1998

Mr. Bruce Isaacks
District Attorney
3rd Floor Denton County Courts Building
P.O. Box 2344
Denton, Texas 76202

OR98-1675

Dear Mr. Isaacks:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116797.

You state that Denton County received two requests for information. You assert that the information requested is excepted from disclosure pursuant to section 552.103 and 552.107(1) of the Government Code.

Section 552.301(a) requires that a governmental body that receives a written request for information that it wishes 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 copies of the written requests for information.

In accordance with section 552.303(c) of the Government Code, this office notified you by facsimile on June 5, 1998, that you had failed to submit the written requests for information, as required by section 552.301(b). We requested that you provide copies of both of the written requests for information 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 these documents would result in the legal presumption that the information at issue was presumed public.

You did not timely provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *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).

We note that while the requestor may have a right of access to much of this information under section 552.023(a) of the Government Code, included in records submitted to this office is information that is confidential by law and may not generally be disclosed to the public. Gov't Code § 552.353 (providing that disclosure of confidential information is official misconduct).

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116797

Enclosures: Submitted documents

cc: Ms. Norma Lynn Gamble
P.O. Box 1411
Denton, Texas 76202
(w/o enclosures)