



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 28, 1998

Mr. John Steiner  
Division Chief  
City of Austin  
Law Department  
P.O. Box 1546  
Austin, Texas 78767-1546

OR98-2516

Dear Mr. Steiner:

You ask this office to reconsider our decision in Open Records Letter No. 98- 1866 (1998). Your request for reconsideration was assigned ID# 119072.

Open Records Letter No. 98-1866, which concerned a request for records pertaining to the construction or repair of the street known as Mount Cedar Cove, determined that the City of Austin (the "city") may not withhold the requested information from disclosure based on section 552.103 of the Government Code because we concluded that the city had not met its burden of showing that litigation is reasonably anticipated and that the documents at issue relate to such reasonably anticipated litigation. In the letter requesting an open records ruling, you had stated that the city anticipates litigation because it received a demand letter from an individual representing clients in a claim against the city. The city had stated that it submitted a copy of the demand letter to this office, but it was not in fact submitted. Consequently, this office notified the city that the referenced demand letter had not been submitted and asked the city to submit the letter to this office. *See Gov't Code §§ 552.301, .303.* In response to our notification, the city did not submit a copy of the demand letter; rather, the city submitted a second copy of the request for information.

You now state that "[a]ccording to our file, the demand letter was sent." You have submitted a copy of the demand letter and ask for reconsideration.

The Open Records Act requires a governmental body to timely submit information necessary to establish the applicability of a raised exception and to enable this office to render a decision. *See id.* § 552.301, .303. You offer no evidence that the city timely sent the demand letter to this office. *See id.* § 552.308. We therefore affirm Open Records Letter No. 98-1866. *See also id.* § 552.303 (e) (requested information presumed to be public where governmental body fails to timely submit information attorney general requests).

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,



Kay Hastings  
Deputy Chief  
Open Records Division

KHH/mjc

Ref.: ID# 119072

cc: Mr. John T. Beliveau  
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