



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 16, 1998

Mr. William G. Walston, Jr., P.C.
Attorney at Law
1021 Highway 35 North
Rockport, Texas 78381

OR98-3155

Dear Mr. Walston:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120734.

The City of Rockport (the "city") received a request for information relating to a former city employee and to the city's selection of a city manager. You seek to withhold the requested information under section 552.103(a) of the Government Code, the "litigation exception." We do not consider your claim under section 552.103(a) because your request for a decision from this office was untimely.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public, *i.e.* that it is made confidential by another source of law or affects third party interests. *See, e.g.*, Open Records Decision No. 150 (1977).

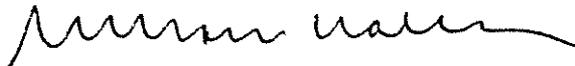
The materials you submitted in connection with your request for a decision indicate that the city received the request for information on September 16, 1998. Your letter seeking a decision from this office was postmarked October 2, 1998. Consequently, you have not met your statutory burden. Gov't Code §§ 552.301, 552.308. The requested information is therefore presumed public and may not be withheld under a permissive exception to

disclosure such as the one you claimed, section 552.103(a). *See, e.g.*, Open Records Decision No. 473 (1987).

We have examined the information you submitted. It appears that the information may contain current or former city employee home address and telephone number information subject to sections 552.024 and 552.117 of the Government Code. Under sections 552.024 and 552.117, a current or former city employee or official can opt to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. You must withhold this information if, as of the time of the request for the information, the employee had elected to keep the information private. Open Records Decision Nos. 530 (1989), 482 (1987), 455 (1987). Otherwise, you must release the information you submitted.¹

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,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 120734

Enclosures: Submitted documents

cc: Mr. Hal George
Broyles & Pratt
500 North Water Street, Suite 1001 North
Corpus Christi, Texas 78471
(w/o enclosures)

¹We note that you indicate that the city may have other records responsive to the request which it has not yet located and submitted. Except for confidential information contained therein, you must release such information if you manage to locate it. *See* Gov't Code § 552.352 (criminal penalties for distribution of confidential information).