



May 27, 1999

Mr. Scott A. Kelly
Deputy General Counsel
Office of General Counsel
Texas A&M University System
301 Tarrow, 6th Floor
College Station, Texas 77840-7896

OR99-1474

Dear Mr. Kelly:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 124944.

Section 552.301(a) of the Government Code provides in part that:

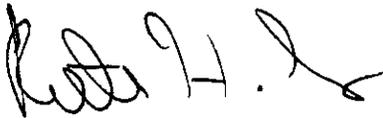
A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the [act's] exceptions . . . must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the request.

You explain that the office was closed for part of March 18, 1999. However, your office was open for business part of March 18, 1999, so that day is counted as a business day. We note that when you called our office we told you that March 18, 1999 would be counted as a business day for purposes of determining timeliness under section 552.301. This office did not receive the request for a decision within the 10 business day period mandated by section 552.301(a). Because the request for a decision was not timely received, the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381; *see* Open Records Decision No. 630 (1994). You have not raised any specific compelling reasons to overcome the presumption that the information is public. Thus, we conclude that the information must be released to the requestor.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy". The signature is fluid and cursive, with a large initial "R" and "S".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/eaf

Ref.: ID# 124944

Encl: Submitted documents

cc: Mr. Michelle L. Brenckman
P.O. Box 3973 Aggieland
College Station, Texas 77844
(w/o enclosures)