



September 9, 1999

Ms. Rhoda Gersch
Executive Director
Combined Community Action, Inc.
400 Gresham
Smithville, Texas 78957

OR99-2508

Dear Ms. Gersch:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128248.

Combined Community Action, Inc. ("CCA") received a request for various information relating to a renovation project. CCA has, however, failed to properly seek a decision of this office within the time limits set out in Chapter 552.

Chapter 552, the Public Information Act, imposes a duty on governmental bodies wishing to withhold information in response to a request to seek an attorney general decision as to whether the requested information may be withheld, and *state the exceptions to disclosure which it believes apply*, within business ten days after the governmental body's receipt of the request for information. Gov't Code § 552.301(a). The time limitation found in section 552.301(a) 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 and in the manner prescribed by section 552.301(a), 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. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

In a letter dated July 26, 1999, CCA advised this office that, on July 22, 1999, CCA had received the request. By letter dated August 2, 1999, this office notified CCA that it must, within ten business days of its receipt of the request, state the exceptions to disclosure under which it was seeking to withhold the requested information in order to avoid the presumption under section 552.302 that the requested information is public. To date, CCA has not informed this office of any exceptions to disclosure under which it seeks to withhold the requested information. Consequently, CCA has not met its statutory burden under section 552.301(a). The requested information is therefore presumed public. Accordingly, CCA must release the requested information unless it can demonstrate to this office a compelling reason why the requested information should be withheld.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.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 128248

cc: Mr. John Miller
Rodgers, Miller & McClain
P.O. Box 4884
Bryan, Texas 77802

¹Generally, sections 552.103, 552.108, and 552.111 do not provide a compelling demonstration to overcome the presumption of openness. *See* Open Records Decision Nos. 586 (1991), 551 (1990), 473 (1987), 470 (1987).