



September 20, 1999

Ms. Lilia Ledesma-Gonzalez
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR99-2630

Dear Ms. Ledesma-Gonzalez:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128679.

The City of McAllen (the "City") received a request on July 20, 1999 for certain information maintained by the City's Parks and Recreation Department. The City submitted its request for a decision to this office postmarked August 12, 1999, explaining "that the 'gathering or compiling' of working papers from several persons took more time than usual, therefore, this request was delayed." You assert that the requested information is exempt from disclosure pursuant to sections 552.111 and 552.106(a) of the Government Code. We have considered the exceptions you claim and reviewed the submitted documents.

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.

In this case, 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.

In addition, for future reference, please note that the current Chief of the Open Records Division is Ms. Becky Payne.

Sincerely,



Rose-Michel Munguia
Assistant Attorney General
Open Records Division

RMM/nc

Ref.: ID# 128697

Encl. Submitted documents

cc: Mr. Greg Townsend
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(w/o enclosures)

(w/o enclosures)