



November 8, 1999

Mr. John S. Schneider, Jr.
First Assistant City Attorney
City of Pasadena
Post Office Box 672
Pasadena, Texas 77501

OR99-3186

Dear Mr. Schneider:

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# 129596.

The City of Pasadena (the "city") received a written request for certain tape recorded conversations between city staff that were made on September 8, 1997. You have submitted to this office for review transcripts of the requested recordings, which you contend are excepted from required public disclosure pursuant to sections 552.101 and 552.103 of the Government Code.

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow when it seeks a decision from the attorney general as to whether requested information falls within an exception to disclosure. Among other requirements, the governmental body must submit "a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient establish that date." Gov't Code § 552.301(e)(1)(C). Otherwise, the requested information "is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold information." Gov't Code § 552.302.

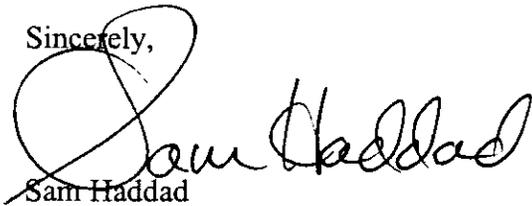
You have provided no statement or evidence establishing the date on which the city received the current request. Because you have not presented this office with compelling reasons for withholding the information at issue pursuant to section 552.103, we deem this exception to disclosure as waived.

However, you also contend that the requested records contain information that is protected by common-law privacy and thus must be withheld pursuant to section 552.101 of the Government Code. A demonstration that information is protected by common-law privacy constitutes a compelling reason for non-disclosure. *See* Open Records Decision No. 150

(1977). We need not address the extent to which the information at issue is protected by privacy, however, because assuming *arguendo* that such is the case, the requestor would have a special right of access to that information pursuant to section 552.023 of the Government Code. *See also* Attorney General Opinion JM-36 (1983) (scope of employee privacy very narrow); Open Records Decision Nos. 444 (1986) (same), 336 (1982) (same), 269 (1981) (same). Consequently, in this instance, the city must release the requested information in its entirety.

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,

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in black ink and is positioned above the typed name.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/RWP/nc

Ref.: ID# 129596

cc: Mr. Rodrigo de Llano
Lawson, Weiss & Danziger
440 Louisiana, Suite 1212
Houston, Texas 77002
(w/o enclosures)