



Office of the Attorney General

State of Texas

May 22, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Mark Dempsey  
Assistant City Attorney  
City of Garland  
P. O. Box 469002  
Garland, Texas 75046-9002

OR92-230

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15458.

The City of Garland received an open records request for, *inter alia*, the "[t]erms of any settlement agreement reached between the city and Camp Dresser & McKee." The city received the request for information on March 13, 1992. You requested a decision from this office on March 24, 1992. Consequently, you failed to request a decision within the 10 days required by section 7(a) of the act.

Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App. - Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.*

We note that although the "Compromise and Settlement Agreement"

contains a provision deeming the terms of the agreement confidential, a governmental body cannot, through a contract, overrule or repeal provisions of the Open Records Act. Attorney General Opinion JM-672 (1987); Open Records Decision No. 484 (1987). You have not shown any compelling reason why the information at issue should not be released. The settlement agreement is therefore presumed to be public and must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-230.

Yours very truly,



William Walker  
Assistant Attorney General  
Opinion Committee

WW/RWP/lmm

Ref: ID# 15458

cc: Mr. Steven Reed  
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