



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. Robert L. Lipstet
Lipstet, Singer & Hirsch
Two Post Oak Central
1980 Post Oak Boulevard
Houston, Texas 77056-3809]

OR95-901

Dear Mr. Lipstet:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31427.

The City of South Houston received a request to view accident reports¹ during certain hours of the week for the remainder of the year. You did not supply any documents that are responsive to the request and do not cite any section of the Open Records Act under which you hope to except those reports from required public disclosure, but merely ask this office "whether the requested information is excepted from disclosure." It is a long standing policy of this office to leave the burden of *establishing exception from required public disclosure with the agency seeking to withhold information*. This office has said "[i]f an agency does not establish how and why a particular exception applies to requested information, we have no basis upon which to pronounce it protected." Open Records Decision No. 363 (1983). Because you have not claimed any exceptions, these records must be disclosed. Because you do not ask about the secondary issue of the scheduled viewing times, we assume that you and the requestor will arrange mutually acceptable viewing times.

¹The Seventy-fourth Legislature has significantly amended section 47 of article 6701d, V.T.C.S., effective September 1, 1995. See Act of May 29, 1995, H.B. 391, § 1, 74th Leg., R.S. (to be codified at V.T.C.S. 6701d, § 47) (copy available from House Document Distribution). We do not address in this ruling whether this amendment to section 47 will affect requests for this type of information that are made on or after September 1, 1995.

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 under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/PIR/rho

Ref.: ID# 31427

cc: Mr. Mike Mottley
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