



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 17, 1995

Mr. John Paul Feeley
Chief Administrator
Orange County Emergency Services
District #1
165 East Railroad Ave.
Vidor, Texas 77662

OR95-1086

Dear Mr. Feeley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 36128.

The Orange County Emergency Services District #1 (the "district") received requests for information under the Open Records Act dated July 5, 1995, August 14, 1995 and September 8, 1995.¹ We received the district's request for a decision from this office on September 28, 1995. In your letter, you state that you have complied with the requests dated July 5, 1995 and August 14, 1995, and ask for "clarification on the records that are to be released and if their can be a charge for copying and for the additional work of paid personnel" to comply with the requests.

Sections 552.301 and 552.302 require a governmental body to request a decision from the attorney general within ten days of receiving a request for information the governmental body wishes to withhold or to release requested information. When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*,

¹On one of the requests to the district, there is a notation regarding the form of the request that appears to have been written by district personnel. We note that any written request to a governmental body for documents or recorded information is governed by the provisions of the Open Records Act. Open Records Decision No. 44 (1974). The Open Records Act does not require that the requestor use any "magic" words, as long as the request can reasonably be identified as a request for public information. Open Records Decision No. 497 (1988). Additionally, you state that the requestor "took it upon himself to conduct an investigation into our business matters." We note that a governmental body is not allowed to inquire as to the purpose for which information is being sought, Gov't Code § 552.222(a), and may not consider the motives of the requestor. Open Records Decision No. 542 (1990).

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.*

With regard to the requests dated July 5, 1995, August 14, 1995, you failed to request a decision within the ten days required by section 552.301(a) of the Government Code. Furthermore, you have not shown compelling reasons why the information at issue should not be released. The information is presumed to be public and must be released.

With regard to the request dated September 8, 1995, although you requested an opinion from this office within the time provided by section 552.301(a), this section also requires a governmental body that requests an attorney general's decision to "state the exceptions that apply." You have not raised any exceptions from disclosure but rather ask for "clarification on the records that are to be released." Therefore, you have not met the requirements of section 552.301(a). Because you have not shown compelling reasons why the information at issue should not be released, the information is presumed to be public and must be released.

Finally, you ask about the amounts that a governmental body can charge for complying with an open records request. We note that many provisions of the Open Records Act concerning charges for public information were amended by House Bill 1718, Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 1, 1995 Tex. Sess. Law Serv. 5127 (Vernon). As amended, section 552.262 of the Government Code provides that the "General Services Commission shall adopt rules for use by each governmental body in determining charges . . ." We suggest you contact the General Services Commission with any questions you may have regarding the appropriate charges under the Open Records Act.

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 may 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,

A handwritten signature in black ink, appearing to read "R. Schmidt", with a stylized flourish at the end.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/rho

Ref: ID# 36128

cc: Mr. Keith Kilbourn
Vidor Vidorian/Vidorian Shopper
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