



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 7, 1995

Mr. Thomas L. Finlay  
Deputy City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78783-3966

OR95-1379

Dear Mr. Finlay:

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# 37023.

The City of San Antonio (the "city") received a request for information under the Open Records Act from Mr. Bob Comeaux on October 20, 1995. You requested an open records decision from this office on November 8, 1995. Consequently, you failed to request a decision within the required ten days. See Act of May 26, 1995, H. B. 1718, 74th Leg., R.S., ch 1035, § 18, 1995 Tex. Sess. Law Serv. 5127, 5139 (to be codified at Gov't Code § 552.301).

Governmental bodies are required to release requested information or to request a decision from the attorney general within ten days of receiving a request for information the governmental body wishes to withhold. *Id.* 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. Gov't Code § 552.302; *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 *Hancock*, 797 S.W.2d at 381.

You have not shown compelling reasons why the information at issue should not be released.<sup>1</sup> See Open Records Decision No. 630 (1994) (mere fact that information would otherwise be protected under attorney-client privilege not "compelling" reason for non-disclosure where ten-day violation occurs). The information is presumed to be public and must be released.

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. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Records Division

MAR/RWP/rho

Ref: ID# 37023

Enclosures: Submitted documents

cc: Mr. Bob Comeaux  
Temporary Editor  
The San Antonio Post  
702 West French Place  
San Antonio, Texas 78212-3636  
(w/o enclosures)

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<sup>1</sup>You explain that you did not timely request a decision from this office because the city could not in the required time frame access the records containing information you seek to withhold. Although this fact may have constituted a compelling reason for not submitting the records to this office in the time frame specified, it does not explain why the city failed to otherwise request an open records decision in a timely manner.