



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 18, 1997

Mr. Kevin Pagan  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR97-2092

Dear Mr. Pagan:

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# 109286.

The City of McAllen (the "city") received a request for information which you describe as a subpoena for deposition on written questions. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

In your request for an open records decision, you argued that the requested information was excepted from required public disclosure pursuant to sections 552.101 and 552.108 of the Government Code. You did not, however, submit to our office at that time a copy of the written request for information or copies of the information at issue. *See Gov't Code § 552.301(b).*

Pursuant to section 552.303(c) of the Government Code, on August 8, 1997, our office notified you by letter sent via facsimile that you had failed to submit information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), *id.*, failure to comply would result in the legal presumption that the requested information is public information.

You did not provide our office with the information that was requested in our August 8, 1997, notice to you. Therefore, as provided by section 552.303(e), the requested information is presumed to be public absent a demonstration that a compelling interest exists for withholding the information. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82

(Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982).

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/ glg

Ref.: ID# 109286

Enclosures: Submitted documents

cc: Mr. Ricardo Olvera  
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(w/o enclosures)