



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 22, 1997

Mr. Ken Johnson  
City Attorney  
City of Copperas Cove  
P.O. Box 1449  
Copperas Cove, Texas 76522

OR97-2349

Dear Mr. Johnson:

You have asked 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# 109732.

The City of Copperas Cove (the "city") received a request for all information pertaining to an arson investigation. You assert that the information at issue is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. However, it appears that the information at issue has previously been provided to another requestor.

You submitted to this office an open records request letter dated April 10, 1997, from David P. Sheldon. Sheldon sought, pursuant to the Texas Open Records Act, access to this arson investigation file. Also submitted to this office was your letter, dated July 22, 1997, to Mr. Sheldon indicating that all of the investigation records were being provided to Mr. Sheldon. In your correspondence to this office, dated September 11, 1997, you indicate that the city complied with Sheldon's open records request by releasing the investigation documents to the requestor.

We note that sections 552.103 and 552.108 are discretionary exceptions that may be waived by the governmental body if it chooses to release information. *See* Open Records Decision Nos. 216 (1978) at 2, 468 (1987) at 3 (discussing governmental body's voluntary disclosure of information). Moreover, chapter 552 of the Government Code generally prohibits the disclosure of information to only certain members of the public while denying access to other members of the public. Section 552.007 of the Government Code provides:

- (a) This chapter does not prohibit a governmental body or its officer from public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law.

(b) Public information made available under Subsection (a) must be made available to any person.

Because the city has opted to release the investigation file, as provided under section 552.007(a), the city does not have the discretion to withhold this same information from a different requestor. Gov't Code § 552.007(b). You must provide the information at issue to the requestor.

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

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 109732

Enclosures: Submitted documents

cc: Ms. Ellise Pierce  
6623 Santale Avenue  
Dallas, Texas 75223  
(w/o enclosures)