



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 7, 1998

Mr. Robert L. Dillard, III
Nichols, Jackson, Dillard, Hager
& Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR98-0065

Dear Mr. Dillard:

On behalf of the City of University Park, Texas (the "city"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111629.

The city received a request for what you say "appears only to be . . . notes written by Emily Jane Hopkins." You seek to withhold the requested records from public disclosure pursuant to section 552.108 of the Government Code. You did not, however, submit to our office certain information that is required to be submitted to our office under section 552.301(b). Specifically, you did not submit a copy of the written request for information.

Pursuant to section 552.303(c) of the Government Code, on November 5, 1997, our office notified you by letter sent via facsimile that you had failed to submit the 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), failure to comply would result in the legal presumption that the requested information is public information.

You did not timely provide our office with the information that was requested in our November 5, 1997, notice to you. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this

presumption. *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). You have not shown compelling reasons why the information at issue should not be released. Therefore, the information is presumed to be public and must be released.

We are resolving this matter with this 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 111629

Enclosure: Submitted information

cc: Ms. Sally Giddens Stephenson
Editor
D Magazine
1700 Commerce Street, 18th Floor
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(w/o enclosure)