



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 23, 1998

Mr. Robert D. Bruce
City Attorney
City of Mineola
P.O. Box 266
Mineola, Texas 75773

OR98-0781

Dear Mr. Bruce:

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# 113793.

The City of Mineola (the "city") received a request for:

1. A copy of the settlement agreement reached between the city and Anthony Gilmore and Mike Sower, former officers of the Mineola police department.
2. A list of all employees of the Mineola police department who have quit, resigned or been terminated since April 1995;
3. A list of all reserve officers who served the Mineola police department in April 1995;
4. A list of all reserve officers who currently serve the Mineola police department.

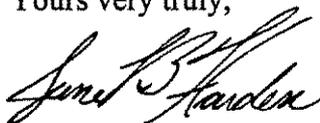
You state that you have released the information responsive to categories 2 through 4. However, you argue that the settlement agreement is protected from disclosure because it contains a confidentiality provision. We have considered your arguments and reviewed the submitted information.

If a court issues an order making the terms of a settlement agreement confidential, the agreement is excepted from disclosure under section 552.107(2) of the Government

Code. However, it does not appear that the city obtained a court order. Instead, the settlement agreement contains a nondisclosure provision which provides that its terms shall not be made known to anyone unless required by law. Normally, a settlement agreement that is not made confidential by a court order will be open to the public. Open Records Decision No. 114 (1975); *see also* Open Records Decision Nos. 444 (1986) at 6 (governmental bodies may not simply agree to keep information confidential), 415 (1984) (settlement agreement made confidential by court order excepted from disclosure under predecessor to Gov't Code § 552.107(2)); *cf. Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976), *cert. denied*, 358 U.S. 931 (1977) (information should not be excepted from disclosure merely because individual furnishing such information did so with expectation that access to information would be restricted). Thus, the fact that the settlement agreement contains a nondisclosure provision does not make the settlement agreement confidential if disclosure is required under the Open Records Act. Therefore, we conclude that the city must release the settlement agreement in its entirety.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/glg

Ref.: ID# 113793

Enclosures: Submitted documents

cc: Mr. David Berry
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