



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 2, 1998

Mr. Craig A. Capua
Robinson, West & Gooden, P.C.
6th Floor Nations Bank - Oak Cliff Banking Center
400 South Zang Blvd.
Dallas, Texas 75208

OR98-0867

Dear Mr. Capua:

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# 113860.

The Dallas Independent School District (the "district"), which you represent, received a request for "all files regarding hearings or litigation in which [the requestor is] involved from August 1993 to December 4, 1997." You assert that the information is excepted from disclosure pursuant to sections 552.103, 552.107 and 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.301 of the Government code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth business day after the date of receiving the written request. You inform us that the district received the written request for information on January 5, 1998. It appears from the submitted documents that the requestor did submit a request for information on that date. However, the requestor has submitted records to this office showing that she originally requested the information from the district on December 4, 1997. In support of this contention, she also submitted a letter from the district to the requestor dated December 4, 1997 which confirms receipt of her open records request of that date. As you did not request a decision from this office until January 19, 1998, more than ten days after the requestor's original written request, we conclude that the district failed to meet its ten-day deadline for requesting an opinion from this office.

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. *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); Gov't Code § 552.302. The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.* Normally, a compelling interest is that some other source of law makes the information confidential or that third party interests are at stake. Open Records Decision No. 150 (1977) at 2. Consequently, we conclude that you may not rely upon sections 552.103, 552.107 or 552.108 to withhold the requested information. As you raise no other exceptions to disclosure, you must release the requested information to the requestor.¹

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 113860

Enclosures: Submitted documents

cc: Ms. Mary Jewell
4750 Pear Ridge Drive, 10101
Dallas, Texas 75287
(w/o enclosures)

¹We note, however, that some of the information at issue may be confidential by law. We remind the district that the release of confidential information may constitute a criminal offense. *See* Gov't Code section 552.353.