



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 16, 1998

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR98-1474

Dear Mr. Toscano:

On behalf of the City of Dallas (the "city"), you ask whether the files concerning claim numbers 95101003042 and 9510103420 are excepted from required public disclosure under section 552.103 of the Government Code. Your request was assigned ID# 116659.

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. Furthermore, "[t]he governmental body must ask for the attorney general's decision and *state the exceptions that apply* within a reasonable time but not later than the 10th business day after the date of receiving the written request." Gov't Code § 552.301(a) (emphasis added). The city received the requestor's written request for information on April 17, 1998. In your original brief to this office, you did not raise an exception in order to withhold the requested information. Subsequently, in a supplemental brief received by this office on May 6, 1998, more than ten business days after the requestor's written request, you assert that section 552.103 excepts the information from public disclosure. Therefore, we conclude that the city failed to meet its ten-day deadline for raising an exception in accordance with section 552.301(a).

When a governmental body fails to comply with section 552.301, 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 Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). 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.

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 116659

Enclosures: Submitted documents

cc: Mr. Watt Henry
1342 Grant Street
Dallas, Texas 75203
(w/o enclosures)