



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1998

Ms. Nancy J. Meadows
City Secretary
City of Watauga
7101 Whitley Road
Watauga, Texas 76148

OR98-1613

Dear Ms. Meadows:

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# 116576.

The City of Watauga (the "city") received two open records requests for certain records pertaining to police officer Tommy Wright, including his personnel file and a federal lawsuit to which Wright is a party. The requestor also seeks records pertaining to the resignation of city council member Rusty Caranfa and his "actions with regard to the Jimmy Arrington vs. Tommy Wright" lawsuit. In your request for an open records decision, you argued that the requested information was excepted from required public disclosure. You did not, however, submit to our office at that time copies of the records at issue, a copy of the complaint in the lawsuit, or an explanation as to how the exceptions to disclosure found in subchapter C of the Open Records Act apply to the specific records being requested. *See* Gov't Code § 552.301(b).

Pursuant to section 552.303(c) of the Government Code, on June 5, 1998, our office notified you by letter sent via facsimile that you had failed to submit 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.

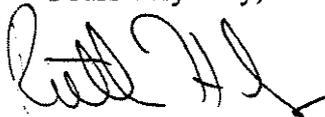
You did not provide our office with the information that was requested in our June 5, 1998 notice to you. Therefore, as provided by section 552.303(e), the requested information

is presumed to be public absent a demonstration that a compelling interest exists for withholding the information. 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 Government Code section 552.302); Open Records Decision No. 319 (1982).

Because you have not presented this office with compelling reasons for withholding the requested information pursuant to sections 552.103 or 552.108 of the Government Code, we deem these exceptions to disclosure as being waived.¹ Further, because you have not submitted to this office for review a copy of the officer's personnel file, we have no basis on which to conclude that any portion of the personnel file is confidential for purposes of section 552.102. Consequently, the requested records must be released in their 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 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/RWP/ch

Ref.: ID# 116576

cc: Mr. Steve Miller
Reporter
Dallas Morning News
Communications Center
P.O. Box 655237
Dallas, Texas 75265

¹Generally, neither sections 552.103 nor 552.108 provide compelling demonstrations to overcome the presumption of openness. Open Records Decision Nos. 630 (1994), 473 (1987).