



June 10, 1999

Ms. Lois Cochran
Records Coordinator
City of Cleburne
P.O. Box 677
Cleburne, Texas 76033-0677

OR99-1630

Dear Ms. Cochran:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125767.

The City of Cleburne received a request for information related to a complaint filed by Burger King. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code.

Section 552.303 of the Government Code states in pertinent part as follows:

- (b) The attorney general may determine whether a governmental body's submission of information is sufficient to render a decision.
- (c) If the governmental body failed to supply to the attorney general all of the specific information that is necessary to render a decision, the attorney general shall give written notice of that fact to the governmental body and the requestor.
- (d) A governmental body notified under Subsection (c) shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received.
- (e) If a governmental body does not comply with Subsection (d), the information that is the subject of a person's request to the governmental body and regarding which the governmental body fails to comply with Subsection (d) is presumed to be public information.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile letter dated May 7, 1999, that you had failed to submit the information required by section 552.303(b). Specifically, we requested that you "submit information to this office clarifying the date on which the request was received by the city." 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 information at issue is public information.

You did not provide our office with the information that was requested. 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 (1992). 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. Open Records Decision No. 195 (1978). You have not raised any specific compelling reasons to overcome the presumption that the information is public. Thus, we conclude that the information must be released to the requestor.

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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 125767

Encl.: Submitted document

cc: Mr. Robert L. Potter
1112 Chase Ave.
Cleburne, Texas 76031
(w/o enclosures)