



September 21, 1999

Mr. C. Scott Brumley
Assistant County Attorney
Civil Division
Potter County
500 South Fillmore, Room 303
Amarillo, Texas 79101

OR99-2654

Dear Mr. Brumley:

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# 128053.

The Potter County Sheriff (the "sheriff"), on whose behalf you seek this ruling, received a written request on July 9, 1999, for the following categories of information:

A certified Copy of the Potter County Sheriff's bond along with the bonding company's address, including the name and address of proper Bonding Company official with which to file a claim against such bond.

You seek to withhold the requested information pursuant to section 552.103 of the Government Code, the "litigation" exception, because the sheriff has been made a party to a mandamus action involving a demand for levy of a writ of execution. We note, however, that among the documents you submitted to this office is a June 1, 1999 letter from Mr. Samuel Brown Silverman requesting the same information described above. This letter to the sheriff constitutes a "written request for information" under the Public Information Act. *See* Gov't Code § 552.301(a). Our records do not reflect that either you or the sheriff requested a decision from this office regarding the information at issue until July 19, 1999. We conclude, therefore, that you failed to request a decision within the ten business days required by section 552.301(a) of the Government Code.

Section 552.301(a) requires a governmental body to release requested information or to request a decision from the attorney general within ten business days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within ten business days of receiving a request for information, the information at issue is presumed public. Gov't Code § 552.302; *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). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See Hancock*, 797 S.W.2d at 381.

You have not shown compelling reasons why the information at issue should not be released. 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 (distribution of confidential information is 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William M. Walker
Assistant Attorney General
Open Records Division

WMW/RWP/nc

Ref.: ID# 128053

Encl. Submitted documents

cc: Mr. Gene DeVoll
3809 East Verde Woods
Grand Prairie, Texas 75052
(w/o enclosures)