



September 30, 1999

Ms. Jennifer S. Riggs  
Riggs & Associates  
602 Harthan Street, Suite A  
Austin, Texas 78703

OR99-2781

Dear Ms. Riggs:

You ask this office to reconsider our ruling in Open Records Letter No. 98-2922 (1998). Your request for reconsideration was assigned ID# 127798.

The Housing Authority of the City of Edna (the "authority") received four requests for information from Mr. Oscar Hinojosa. In your first request for a ruling, you asserted, among other claims, that the responsive information was excepted from disclosure under section 552.103 of the Government Code. In support of your 552.103 claim, you submitted a copy of a petition that was filed against the authority on January 23, 1998 in District Court in Jackson County, Texas, Cause No. 98-1-10941. In Open Records Letter No. 98-0441 (1998), this office concluded that the authority had met its 552.103 burden by demonstrating that the responsive information was related to the pending litigation. As has been our practice for the last seventeen years, this office concluded its 552.103 analysis with the following statement: "In addition, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982)." ORL 98-0441 at 2.

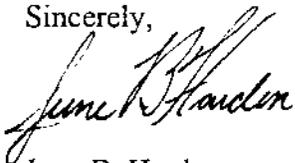
You state that after the litigation concluded, Mr Hinojosa renewed his request for this and other information. You also state that the authority timely sought an open records decision from this office, but failed to resubmit the information previously submitted in connection with ORL 98-0441. We note that section 552.301 of the Government Code imposes a duty on a governmental body seeking an open records decision to submit a copy of the specific information requested or representative samples of that information. On two separate occasions, this office notified you by facsimile of your obligation to submit the information at issue. *See* Gov't Code § 552.303(c). In fact, the second notice clearly stated that failure

to respond within the statutory time period resulted in the presumption that the requested information was public. See Gov't Code § 552.303(e). The authority, however, failed to respond to this notice within the statutory time period.<sup>1</sup> Therefore, based on your failure to comply with the requirements of section 552.303(c), this office concluded, *inter alia*, that the documents at issue in ORL 98-0441 must now be released to the requestor. ORL 98-2922 at 4.

Seven months after receiving our decision, you seek a reconsideration of ORL 98-2922 on the grounds that the authority was unaware of the temporal nature of section 552.103 and of its obligations to respond to our 552.303(c) notice. After reviewing the facts and your additional arguments, we conclude that the law was correctly applied in ORL 98-2922. Accordingly, this office will no longer entertain any additional arguments or discussion on this matter. The authority must release the information at issue without further delay. Open Records letter No. 98-2922 (1998) is hereby affirmed.

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,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref: ID# 127798

cc: Mr. Oscar Hinojosa  
P.O. Box 445  
Ganado, Texas 77962-0445

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<sup>1</sup>You explain that by a letter dated November 13, 1998, the authority offered to resubmit the requested information to this office for review. Since your letter arrived nearly a month after the statutory time period had expired, this office did not respond to your inquiry.