



March 20, 2002

Mr. Steven D. Monté
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main, Room 501
Dallas, Texas 75201

OR2002-1406

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 160049.

The City of Dallas (the "city") received two written requests for information pertaining to the alarm permits at two particular locations, including a copy of the alarm permit applications.¹ You contend that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code.

We note at the outset that although the city apparently received the first request on November 26, 2001, you did not request a decision from this office until January 14, 2002. Section 552.301(a) of the Government Code requires a governmental body to request a decision from the attorney general within ten business days after receiving a request for information that the governmental body wishes to withhold, unless there has been a previous determination that the requested information is excepted from required public disclosure. When a governmental body fails to comply with the requirements of section 552.301, 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 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 reason to withhold the information to overcome this presumption. Gov't Code § 552.302; *see also Hancock*, 797 S.W.2d at 381.

¹We note that you referenced only one of these requests in your brief to this office.

A compelling reason for withholding information is demonstrated where the information is made confidential by other law or where third party interests are at issue. Open Records Decision No. 150 (1977). Because you contend that the requested information is made confidential by statutory law, we will consider the extent to which the requested information is subject to required public disclosure. *See id.*

Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Information contained in alarm systems records is governed by section 1702.284 of the Occupations Code, which provides:

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board or as otherwise required by state law or court order.

The alarm permit application you submitted to this office contains the address of the alarm site, which is made confidential under section 1702.284 of the Occupations Code and therefore must be withheld in conjunction with section 552.101 of the Government Code. We have marked the application accordingly. However, the remainder of the information in the application is not protected by section 1702.284 and therefore must be released..

Although you have not submitted to this office any records responsive to the second request received by the city, you indicate that no responsive records exist. Assuming that such is the case, we conclude that the city is not required to release any information in response to that request at this time. *See* Open Records Decision No. 445 (1986) (governmental body not required to prepare new information in response to records request); *see also* Open Records Decision No. 347 (1982) (governmental body not required to answer factual questions).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

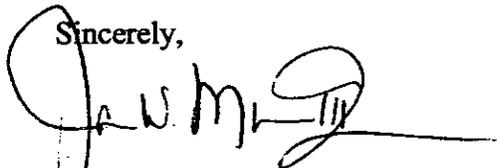
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/RWP/sdk

Ref: ID# 160049

Enc: Submitted documents

c: Mr. James Olsen
Crocker Claims Service
P.O. Box 165303
Irving, Texas 75016
(w/o enclosures)