OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

October 31, 2002

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2002-6199

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 171511.

The City of Garland (the "city") received a request for the resident name, business name, address, city, zip code, premises phone number, date of initial registration, and name of alarm company for all registered alarm holders in the city. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. This ruling does not address the remaining submitted information as it was not requested and therefore is not responsive to the request. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

Section 552.101 of the Government Code excepts from disclosure information that is confidential by law. Information contained in alarm systems records is governed by section 1702.284 of the Occupations Code, which provides:

[1]We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

> 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 submitted information contains the addresses of alarm sites, the names of the occupants at the addresses, and the types of alarm used. Information concerning the occupant name and the type and location of the alarm systems is clearly made confidential by section 1702.284 of the Occupations Code. Furthermore, because section 1702.284 provides that information "that concerns the location of an alarm system" and the name of the occupant of an alarm system location is confidential, we conclude that you must withhold the names of the businesses at the alarm system locations, also. We have marked this information that falls under section 1702.284 of the Occupations Code and must therefore be withheld under section 552.101 of the Government Code.

The submitted information also contain the names of individuals listed as "permit holder responsible for alarm," "holder," and "contact persons." However, it is not always apparent from the submitted information, nor do you inform us, that these individuals are actually occupants of the alarm system location. If these individuals are occupants of the alarm system location, their names must be withheld as information concerning the name of an occupant of an alarm system location.[2] Likewise, to the extent the phone numbers accompanying the names of the individuals are their phone numbers at the alarm system location, the phone numbers must be withheld as information concerning the location of an alarm. However, if the individuals are not occupants of the alarm system location, their names and phone numbers are not made confidential by section 1702.284 of the Occupations Code.

Finally, the requestor has also requested the alarm company name and the date of initial registration for each registered alarm holder. As a general rule, the statutory confidentiality protected by section 552.101 requires express language making certain information confidential or stating that information shall not be released to the public. Open Records Decision No. 478 (1987). By its plain language, section 1702.284 of the Occupations Code does not expressly make alarm company names or dates of initial registration confidential. Accordingly, we find that this information is not excepted from release under section 1702.284. Accordingly, you may not withhold the alarm company name and the date of initial registration under section 552.101.

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[2]The term "occupant" is not defined for the purposes of section 1702.284. However, under its plain meaning, an occupant is "[o]ne that occupies a place or position, esp. a resident." WEBSTER'S II NEW COLLEGE DICTIONARY 757 (1995). To "occupy" means, among other things, "[t]o fill up (space or time)," "[t]o reside in," or "[t]o hold or fill." *Id.*

In summary, you must withhold the addresses of alarm sites, the names of occupants of alarm sites, the types of alarms used, and the names of the businesses at alarm system locations. You must withhold the names of individuals marked "permit holder responsible for alarm," "holder," and "contact persons" to the extent these individuals are occupants of the alarm system locations, and you must withhold the phone numbers accompanying the names of these individuals to the extent the numbers are occupants' phone numbers at the alarm system location.

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).

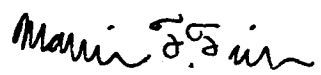
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

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,



Maverick F. Fisher
Assistant Attorney General
Open Records Division

MFF/seg

Ref: ID# 171511

Enc: Submitted documents

c: Mr. Michael Nolen Walker
President
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(w/o enclosures)