OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 30, 2002

Mr. Darrell G-M Noga
Roberts & Smaby
1717 Main Street, Suite 3000
Dallas, Texas 75201

OR2002-7446

Dear Mr. Noga:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 174414.

The City of Coppell (the "city"), which you represent, received a request for information relating to all registered alarm holders in the city. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.127 of the Government Code. We have considered the exceptions you claim and reviewed the submitted sample of information.[1]

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. This request 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 commission or as otherwise required by state law or court order.

Occ. Code § 1702.284. The requestor asks for each alarm holder's name, business name, address, phone number, date of initial alarm registration, and name of alarm company. We conclude that you must withhold the occupants' names and the addresses under section

[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.

552.101 in conjunction with section 1702.284. Furthermore, because section 1702.284 provides that information "that concerns the location of an alarm system" is protected from disclosure, we conclude that you must withhold the telephone numbers at the alarm sites as well. On the other hand, the name of the alarm company is not made confidential by this statute and must be released. The date of initial registration is not confidential information; however, the sample that you have submitted does not contain that information.

You also claim that the information in question is excepted from disclosure by section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Section 552.108(b)(1) of the Government Code excepts from public disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution" if "release of the internal record or notation would interfere with law enforcement or prosecution." Gov't Code § 552.108. Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The remaining responsive information not made confidential by section 1702.284 is the name of the alarm company. You state that release of the information could interfere with the department's ability to protect citizens and businesses and its ability to detect and investigate crime. We conclude that you have failed to demonstrate how release of the name of the alarm company standing alone would interfere with the detection, investigation, or prosecution of crime.

Section 552.127 excepts from required public disclosure the names, addresses, and telephone numbers of participants in a neighborhood watch organization. We have already ruled that the names, addresses, and telephone numbers of the alarm permit holders are confidential under section 1702.284 of the Occupations Code. Section 552.127 does not provide any additional protection that would extend to the name of the alarm company. Therefore, you must release this information. This ruling does not address the rest of the submitted information as it is not responsive to the request.

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).

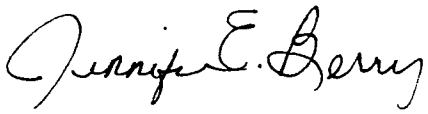
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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,



Jennifer E. Berry
Assistant Attorney General
Open Records Division

JEB/sdk

Ref: ID# 174414

Enc: Submitted documents

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