



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 27, 2004

Ms. Meredith Ladd
Brown & Hofmeister, L.L.P.
1717 Main Street, Suite 4300
Dallas, Texas 75201

OR2004-3439

Dear Ms. Ladd:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 200371.

The Town of Flower Mound (the "town"), which you represent, received a request for a list of alarm permit holders, including the holder's name, address, and telephone number. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the representative sample of records.¹

Initially, we note, and you agree, that the town failed to fully comply with section 552.301 of the Government Code. The town failed to submit a copy of the request for information as mandated by section 552.301(e) to this office within the statutory fifteen business day period. *See* Gov't Code § 552.301(e) (indicating information governmental body must submit to attorney general when requesting open records decision). The town's failure to comply with the procedural requirements of the Public Information Act results in the presumption that the requested information is public. In order to overcome this presumption of openness, the town must provide compelling reasons why the information should not be disclosed. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin

¹We 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.

1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. Since the applicability of section 552.101 can provide a compelling reason to overcome the presumption of openness, we will address your arguments against disclosure.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information made confidential by other statutes. Section 1702.284 of the Occupations Code 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.

The requested information reveals the location of an alarm system and the name of the occupant. After reviewing the requested information and your arguments, we conclude that section 1702.284 of the Occupations Code is applicable to a portion of the information. Furthermore, we note that section 1702.284 provides that information "that concerns the location of an alarm system" is protected from disclosure. In the sample provided, the telephone number of the occupant is listed. As release of this information would appear to provide location information that is protected from disclosure under section 1702.284, we conclude that the occupant's telephone number must also be withheld from disclosure. Accordingly, the town must withhold the occupant's name, the location of the alarm system, and the telephone number pursuant to section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. As the remaining information is not responsive to the instant request, the town need not release this information to the requestor.

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 Dep't of Pub. 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,



Melissa Vela-Martinez
Assistant Attorney General
Open Records Division

MVM/sdk

Ref: ID# 200371

Enc. Submitted documents

c: Ms. Shameka Ford
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(w/o enclosures)