



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 26, 2006

Ms. Maleshia B. Farmer
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-11179

Dear Ms. Farmer:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 260214.

The City of Fort Worth (the "city") received a request for information related to burglar and fire alarm permit holders. You state that you have no responsive information regarding fire alarm permit holders.¹ You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you acknowledge, and we agree, that the city has not complied with the statutory deadlines prescribed by section 552.301 of the Government Code with regard to a portion of the submitted information. When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public and must be released unless a compelling reason exists for withholding the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (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). A compelling reason for withholding information is demonstrated where

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

information is made confidential by other law or where third party interests are at issue. Open Records Decision No. 150 (1977). In this instance, because you contend that some of the information at issue is made confidential by other law, we will consider your arguments regarding the information that was not timely submitted.

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,” and encompasses information made confidential by other statutes. Gov’t Code § 552.101. 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 [Texas Commission on Private Security] or as otherwise required by state law or court order.

Occ. Code § 1702.284. We note that the submitted documents contain information concerning the locations of alarm systems, the names of the occupants of the alarm systems, and the occupants’ corresponding telephone numbers. Because section 1702.284 provides that information “that concerns the location of an alarm system [or] the name of the occupant of an alarm system location” is protected from disclosure, to the extent the submitted telephone numbers correspond to an alarm system location or the occupant of an alarm system location, we conclude that you must withhold this information. To the extent the submitted telephone numbers do not so correspond, they must be released. The locations of the alarm systems and the names of the occupants of the alarm systems must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. The remaining information must be released 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

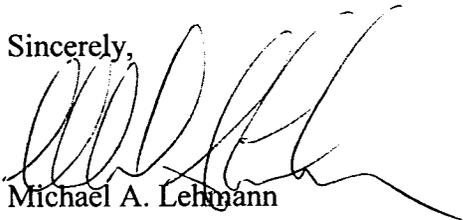
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Michael A. Lehmann
Assistant Attorney General
Open Records Division

MAL/dh

Ref: ID# 260214

Enc. Submitted documents

c: Mr. Michael Arnold
Intrepid Security & Protection
P.O. Box 16003
Fort Worth, Texas 76162-0003
(w/o enclosures)