



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2009

Mr. Ron G. MacFarlane, Jr.
Dealey, Zimmermann, Clark, Malouf & MacFarlane, P.C.
Attorney for City of Cedar Hill
3131 Turtle Creek Boulevard, Suite 1201
Dallas, Texas 75219-5415

OR2009-11185

Dear Mr. MacFarlane:

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# 351729.

The City of Cedar Hill (the "city"), which you represent, received a request for all telephone call-in information pertaining to a specified motor vehicle accident. You claim that portions of the requested information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 771.061 of the Health and Safety Code makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service." Health & Safety Code § 771.061(a). You assert that the submitted information is confidential under section 771.061(a). You indicate that the information at issue was provided to the city by its telecommunications service provider, Southwest Regional Communications Center. We agree that to the extent the submitted information contains information that was required to be furnished to the city by a telecommunications service provider, the information is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999). However, information in the submitted documents that was not required to be furnished to the city by a telecommunications service provider is not confidential under section 771.061, and may not be withheld on that basis. To the extent that the submitted documents contain information that is not confidential under section 771.061 of

the Health and Safety Code, we address your remaining arguments against disclosure of this information.

You claim that the information you have marked is confidential under section 552.101 in conjunction with Chapter 772 of the Health and Safety Code, which makes the originating telephone numbers and addresses of certain 9-1-1 calls confidential. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a 9-1-1 service supplier. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You seek to withhold information related to 9-1-1 callers. We understand that the city is part of an emergency communication district established under section 772.318 of the Health and Safety Code. Thus, to the extent that the originating telephone numbers and addresses you marked were provided by a 9-1-1 service supplier, they must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, we note that information provided by a 9-1-1 caller is not confidential under chapter 772 if it was not provided by a 9-1-1 service supplier. Thus, if this information was not provided by a 9-1-1 service supplier to the emergency communication district, this information may not be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

We note some of the remaining information is excepted from disclosure under common-law privacy, which is also encompassed by section 552.101 of the Government Code. Common-law privacy protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate and embarrassing. See Open Records Decision No. 545 (1990). Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

You contend that some of the remaining information is subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Gov't Code

§ 552.130(a)(1)-(2). We note that some of the information you have marked under section 552.130 does not constitute Texas motor vehicle record information for the purpose of section 552.130 and may not be withheld on that basis. We have marked this information for release. Accordingly, with the exception of the information we have marked for release, the city must withhold the Texas motor vehicle record information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.

In summary, to the extent the submitted information contains information that was required to be furnished to the city by a telecommunications service provider, the information is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. To the extent that the originating telephone numbers and addresses you marked were provided by a 9-1-1 service supplier, they must be withheld under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The city must withhold the lien information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information we have marked for release, the city must withhold the Texas motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 351729

Enc. Submitted documents

c: Requestor
(w/o enclosures)