



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2013

Mr. Warren M. S. Ernst
Chief of the General Counsel Division
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2013-08991

Dear Mr. Ernst:

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# 488820.

The City of Dallas (the "city") received a request for a list of current security alarm customers, including the customers' names, addresses, telephone numbers, and e-mail addresses.¹ You claim 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 representative sample of information.²

¹You state the city sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

²We assume 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 those records contain substantially different types of information than those submitted to this office.

Section 552.137 provides, “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c).³ Gov’t Code § 552.137(a)-(c). The city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their release.⁴

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses section 1702.284(a) 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 [Texas Private Security Board], to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

Occ. Code § 1702.284(a); *see also id.* § 1702.002(1)(A)(ii) (defining “alarm system” as electronic equipment and devices designed to detect or signal occurrence of robbery or other emergency). The submitted information consists of a list of current customers to whom security alarm permits have been issued. Upon review, we find the customer names, physical addresses, and telephone numbers we have marked are generally confidential under section 1702.284. We note 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. *Id.* § 1702.284(a). Accordingly, to the extent the information we have marked corresponds to alarm system locations or the names of the occupants of alarm system locations, we conclude the city must withhold this information under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. To the extent the information at issue does not so correspond, the city may not withhold it under section 552.101 on that basis. In either instance, the city has failed to demonstrate how any portion of the remaining information concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used. Accordingly, no portion of the remaining information may be withheld under section 552.101 of the

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁴As our ruling is dispositive for this information, we need not address your argument under section 552.101 against disclosure of this information.

Government Code in conjunction with section 1702.284 of the Occupations Code. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection).

In summary, the city must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their release. To the extent the information we have marked corresponds to alarm system locations or the names of the occupants of alarm system locations, we conclude the city must withhold this information under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. The remaining information must be released.

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, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/dls

Ref: ID# 488820

Enc. Submitted documents

c: Requestor
(w/o enclosures)

