



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 5, 2014

Ms. Lisa D. Mares
Counsel for the City of Keene
Brown & Hofmeister, L.L.P.
740 East Campbell, Suite 800
Richardson, Texas 75081

OR2014-13548

Dear Ms. Mares:

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# 531586.

The City of Keene (the "city"), which you represent, received a request for (1) a complete list of the e-mail addresses and telephone numbers for emergency notification, and (2) a copy of a specified charter. You state the city has released the specified charter. 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 information.

Initially, we note the requestor seeks only e-mail addresses and telephone numbers for emergency notification; thus, any other information is not responsive to the instant request for information. This ruling does not address the public availability of any information not responsive to the instant request, and the city need not release any non-responsive information in response to the present request.

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 552.101 encompasses information made confidential by other statutes, such as section 771.061 of the Health and Safety Code, which 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" and "[i]nformation that is contained in an address database maintained by a governmental entity or a third party used

in providing computerized 9-1-1 service[.]” Health & Safety Code § 771.061(a). You inform us the city provides 9-1-1 and emergency services, including notifying the public of an emergency. You explain the responsive information includes phone numbers and e-mail addresses provided voluntarily at the city’s request in order to create and maintain an emergency notification system. Finally, you state the city currently uses and maintains the submitted data to provide emergency services. Based upon your representations, we find to the extent any portion of the responsive information was furnished to the city by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, 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, any information that was not furnished to the city by a telecommunications service provider and is not contained in an address database maintained by the city or a third party used in providing computerized 9-1-1 service is not confidential under section 771.061, and may not be withheld under section 552.101 on that basis.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.¹ *See* Gov’t Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). We note section 552.1175 also encompasses a personal cellular telephone or pager number, unless the cellular or pager service is paid for by a governmental body. *See* Open Records Decision 506 at 5-7 (1988). The submitted information indicates some of the responsive phone numbers may belong to peace officers. Thus, to the extent the responsive home and cellular phone numbers belong to peace officers who elect to restrict access to the information in accordance with section 552.1175(b), the city must withhold them under section 552.1175 of the Government Code; however, in that instance, the cellular telephone numbers may only be withheld if the services are not paid for by a governmental body. Conversely, if the individuals whose information is at issue are not currently licensed peace officers or do not elect to restrict access to the information in accordance with section 552.1175(b), that information may not be withheld under section 552.1175.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c). *See* Gov’t Code § 552.137(a)-(c). The city must withhold the personal e-mail addresses under

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure or section 552.137(c) applies.

In summary, to the extent any portion of the responsive information was furnished to the city by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, 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 the responsive home and cellular phone numbers belong to peace officers who elect to restrict access to the information in accordance with section 552.1175(b), the city must withhold them under section 552.1175 of the Government Code; however, in that instance, the cellular telephone numbers may only be withheld if the services are not paid for by a governmental body. The city must withhold the submitted personal e-mail addresses under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure or section 552.137(c) applies. The remaining responsive 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 531586

Enc. Submitted documents

c: Requestor
(w/o enclosures)