



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2014

Ms. Melanie Barton
Assistant District Attorney
County of Dallas
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2014-23231

Dear Ms. Barton:

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# 548593.

Dallas County (the "county") received a request for all correspondence, including e-mails, text messages, and memos, pertaining to (1) the removal of possibly Ebola-contaminated materials from a specified apartment building; and (2) two specified businesses. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have also received and considered comments from the Department of State Health Services. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

Initially, we note portions of the requested information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter

¹We 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 that submitted to this office.

No. 2014-23041 (2014). There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the county must continue to rely on Open Records Letter No. 2014-23041 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). To the extent the information at issue is not encompassed by the previous ruling, we will consider your arguments against disclosure.

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 81.046 of the Health and Safety Code, which provides in part:

(a) Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the [Texas Department of State Health Services] that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Health & Safety Code § 81.046(a), (b). In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created during an investigation under chapter 81 of the Health and Safety Code is confidential and may not be released unless an exception set out in the statute applies. *See id.* § 81.046(b)-(d), (f); ORD 577. We understand the county acquired or created the remaining information in the course of investigating a case of Ebola. Based on your representations and our review, we agree section 81.046 governs the release of the remaining information. None of the release provisions of section 81.046 appear to be applicable. Accordingly, we determine the county must withhold the remaining information in its entirety under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.²

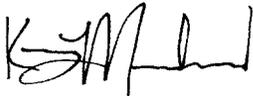
²As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

In summary, the county must continue to rely on Open Records Letter No. 2014-23041 as a previous determination and withhold or release the identical information in accordance with that ruling. The county must withhold the remaining information in its entirety under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.

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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/akg

Ref: ID# 548593

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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