



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 18, 1997

Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR97-2102

Dear Mr. Steiner:

You seek reconsideration of Open Records Letter No. 97-1063 (1997), in which this office determined that the City of Austin (the "city"), which you represent, had not met its burden under chapter 552 of the Government Code and that the requested information was presumed to be public. We have assigned your request for reconsideration ID# 107945.

When arguments in a request for an open records decision are not made within the time period prescribed by section 552.301, the requested information is presumed to be public. Gov't Code § 552.302. The Open Records Act places on a governmental body the burden of establishing why and how an exception applies to requested information. Open Records Decision 542 (1990). This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests). Here, the Advisory Commission on State Emergency Communications (the "commission") claims that a statute, section 771.061 of the Health and Safety Code, makes the requested information confidential. Therefore, we consider the commission's arguments.

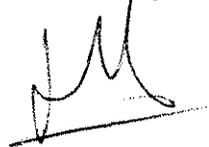
The commission claims that the addresses and telephone numbers of those calling in to the 9-1-1 services are made confidential by law. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. In the last legislative session, House Bill 13224 was passed, which added section 771.061 to the Health and Safety Code. Section 771.061 provides:

(a) Information that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service is confidential and is not available for public inspection. Information that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service is confidential and is not available for public inspection.

After reviewing section 771.061 of the Health and Safety Code, we find that the information that is contained in an address database maintained by a governmental entity or third party used in providing computerized 9-1-1 service is confidential and is not available for public inspection. We conclude, therefore, that the city must withhold the names and addresses of those persons utilizing the 9-1-1 services under section 771.061 of the Health and Safety Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/alg

Ref.: ID# 107945

cc: Mr. Bob Banta
Reporter
Austin American-Statesman
P.O. Box 670
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(w/o enclosure)