



November 22, 2000

Ms. Tamara Armstrong
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2000-4517

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 141691.

The Travis County Sheriff's Department (the "sheriff") received a request for (1) "all applications for Alarm System Permits received ... since January 1, 2000"; (2) "records showing the date and location of 'false alarms' since January 1, 2000 and the amount of fines collected for such 'false alarms'"; and (3) "copies of all warning citations, waivers, and revocation notices issued by the Sheriff's Office." You first state that you have no information responsive to the second and third requests. We note that the Public Information Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986). However, you have submitted what appears to be a list of all alarm calls received since January 1, 2000. You have also submitted representative samples of the requested alarm system permit applications filed with the county. You claim that some of this material is not subject to the Public Information Act (the "Act") and some of the information is excepted from public disclosure under sections 552.101 and 552.130 of the Government Code. We have considered your arguments and the exceptions you claim and reviewed the submitted sample information.¹

¹In reaching our conclusion here, we assume that 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 that those records contain substantially different types of information than that submitted to this office.

First, you claim that alarm codes contained within the alarm system permit applications are not “information” for purposes of the Act. Citing Open Records Decision No. 581 (1990), you state that, “[l]ike combination safe numbers, computer codes, and keys, alarm system codes and gate codes are tools which may be utilized to breach or undermine security at the location,” and therefore the codes are not subject to the Act. In Open Records Decision No. 581, we held that information is not the kind made public by the Act where the “information has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property.” Here, the information is a transcription of private alarm codes submitted to a governmental body as a part of applications for alarm system permits, not merely a tool for the maintenance, manipulation, or protection of property. We therefore find Open Records Decision No. 581 inapplicable and find the alarm codes contained within the alarm system permit applications to be “information” subject to the Act. *See Gov’t Code § 552.002.*

We next consider your argument that certain information contained in the submitted documents, including the alarm codes, is excepted from disclosure under section 552.101. Section 552.101 of the Government Code excepts from disclosure information that is confidential by law. Information contained in alarm systems records is governed by section 1702.284 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 board or as otherwise required by state law or court order.

The submitted alarm call records contain the addresses of alarm sites. Likewise, the submitted alarm system applications contain information on the addresses of alarm sites, the name of the business at the address, if applicable, and the type of alarm used. Information concerning the type and location of the alarm systems is clearly made confidential by section 1702.284 of the Occupations Code. Furthermore, because section 1702.284 provides that information “that concerns the location of an alarm system” and the name of the occupant of an alarm system location is confidential we conclude you must withhold the name of the business at the alarm system location, to the extent applicable. We have marked this information that falls under section 1702.284 of the Occupations Code and must therefore be withheld under section 552.101 of the Government Code.

The applications also contain the names of individuals listed as “contacts,” “applicants,” and “persons responsible.” However, it is not apparent from the applications, nor do you inform us, that the individuals are actually occupants of the alarm system location. If these individuals are occupants of the alarm system location, their names must be withheld as

information concerning the name of an occupant of an alarm system location.² Likewise, to the extent the phone numbers accompanying the names of the individuals are their phone numbers at the alarm system location, the phone numbers must be withheld as information concerning the location of an alarm. However, if the individuals are not occupants of the alarm system location, their names and phone numbers are not made confidential by section 1702.284 of the Occupations Code. Furthermore, the remainder of the information included in the applications, including the alarm code information, is not confidential under section 1702.284 of the Occupations Code.

You also claim that information concerning the applicants' driver's license information is excepted under section 552.130 of the Government Code. Under section 552.130(a)(1) of the Government Code, information relating to "a motor vehicle operator's or driver's license or permit issued by an agency of this state" is excepted from application of the disclosure requirements of the Public Information Act. Gov't Code § 552.130(a)(1). Therefore, you must withhold the Texas driver's license numbers contained in the submitted documents under section 552.130(a) of the Government Code. We have marked this information.

In summary, you must withhold the marked addresses, business names, and alarm types in the submitted documents under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. Furthermore, you must withhold any names contained in the alarm system applications to the extent the individuals are occupants of the alarm system location, and you must withhold their accompanying phone numbers to the extent the numbers are connected to the alarm system location. Finally, you must withhold the marked Texas driver's license numbers under section 552.130 of the Government Code. The remainder of the information is not confidential under section 1702.284 of the Occupations Code and must therefore be released.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days.

²The term "occupant" is not defined for the purposes of section 1702.284. However, under its plain meaning, an occupant is "[o]ne that occupies a place or position, esp. a resident." WEBSTER'S II NEW COLLEGE DICTIONARY 757 (1995). To "occupy" means, among other things, "[t]o fill up (space or time)," "[t]o reside in," or "[t]o hold or fill." *Id.*

Id. § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

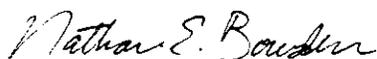
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB\er

Ref: ID# 141691

Encl: Submitted documents

cc: Mr. Bill Aleshire
3605 Shady Valley Drive
Austin, Texas 78739
(w/o enclosures)