



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 27, 2003

Ms. Meredith Ladd
Brown & Hoffmeister, L.L.P.
1717 Main Street, Suite 4300
Dallas, Texas 75201

OR2003-3555

Dear Ms. Ladd:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 181660.

The City of McKinney (the "city"), which you represent, received a request for a list of all alarms registered in the city. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. We have considered the exception you claim and reviewed the submitted representative samples of information.¹

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

¹ 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.

is confidential and may be disclosed only to the board or as otherwise required by state law or court order.

The submitted information contains the addresses of alarm sites, the names of the occupants at the addresses, and the types of alarm used. Information concerning the occupant name and 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 that the city must withhold the names of the businesses at the alarm system locations, also. 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 submitted information also contain the names of individuals listed as “permit holder/person responsible” and “contact persons.” However, it is not apparent from the submitted information, nor does the city inform us, that these 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.

Finally, the submitted information also contain the alarm company name and the date of initial registration and expiration for each registered alarm holder. As a general rule, the statutory confidentiality protected by section 552.101 requires express language making certain information confidential or stating that information shall not be released to the public. Open Records Decision No. 478 (1987). By its plain language, section 1702.284 of the Occupations Code does not expressly make alarm company names or dates of initial registration or expiration confidential. Accordingly, we find that this information is not excepted from release under section 1702.284. Accordingly, the city may not withhold the alarm company name and the date of initial registration and expiration under section 552.101.

² The 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.*

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. All other information contained therein may 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. *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 Hadassah Schloss at the Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Robert F. Maier
Assistant Attorney General
Open Records Division

RFM/seg

Ref: ID# 181660

Enc. Submitted documents

c: Ms. Jennifer Emily
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(w/o enclosures)