



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 20, 2003

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

OR2003-8350

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# 191461.

The Town of Flower Mound (the "town"), which you represent, received a request for 9-1-1 calls for a specified residence. You claim that the requested 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.<sup>1</sup>

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information made confidential by other statutes. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 911 callers furnished by a 911 service supplier. *See* Open Records Decision No. 649 (1996). Based on your representation that the town is part of an emergency communication district established under chapter 772, we conclude the town must withhold the originating addresses and telephone numbers contained in the documents at issue if they were furnished by a 911 service supplier pursuant to section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code.

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<sup>1</sup>As a preliminary matter, although you discuss 9-1-1 tapes related to this incident in your brief, you have not submitted any tapes to this office, nor have you raised any exceptions to their disclosure. Therefore, we assume that, to the extent this information exists, it has been released to the requestor. If not, the town must release such information immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000) (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances).

Section 552.101 also encompasses 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 commission or as otherwise required by state law or court order.

Occ. Code § 1702.284. Portions of the submitted information reveal the location and type of alarm system used. Accordingly, we conclude that the town must withhold this information, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code.

Finally, section 552.101 also encompasses the doctrine of common-law privacy. Information is protected under the common-law right to privacy when (1) it contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the public has no legitimate interest in the information. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Based on our review of the submitted information, we conclude it contains such highly intimate or embarrassing facts as to warrant protection under common-law privacy. In addition, the public does not have a legitimate interest in this information. Therefore, the town must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

To summarize, we conclude (1) the town must withhold the originating addresses and telephone numbers contained in the documents at issue if they were furnished by a 911 service supplier pursuant to section 552.101 of the Government Code in conjunction with chapter 772 of the Health and Safety Code, (2) the town must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code, and (3) the town must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must 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,



Sarah I. Swanson  
Assistant Attorney General  
Open Records Division

SIS/lmt

Ref: ID# 191461

Enc. Submitted documents

c: Ms. Rebecca Rawlings  
1301 East Collins  
Richardson, Texas 75081  
(w/o enclosures)