



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2009

Mr. Ron G. MacFarlane, Jr.
Dealey, Zimmermann, Clark, Malouf & MacFarlane, P.C.
3131 Turtle Creek Boulevard, Suite 1201
Dallas, Texas 75219-5415

OR2009-16236

Dear Mr. MacFarlane:

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# 361518.

The City of Cedar Hill (the "city"), which you represent, received a request for the 9-1-1 call from a specified incident. You claim that the submitted 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.

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. You claim the submitted audio recording is confidential under section 771.061 of the Health and Safety Code. Section 771.061 makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service." Health & Safety Code § 771.061(a). In this instance, we note that all of the information provided in the recording was provided by the 9-1-1 caller, and not a third-party telecommunications service provider. Thus, we find that you have failed to establish that section 771.061 of the Health and Safety Code is applicable to the submitted 9-1-1 recording, and the recording may not be withheld under section 552.101 of the Government Code on this basis.

Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code apply only to an emergency 9-1-1 district established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These statutes make confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You assert that the telephone number and address in the submitted audio recording is confidential under section 772.318. However, the information in the recording was provided by the caller, and not by a 9-1-1 service provider; therefore, section 772.318 is not applicable to this information and the department may not withhold it under section 552.101 of the Government Code on that basis. As you raise no further exceptions against disclosure, the submitted information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 361518

Enc. Submitted documents

cc: Requestor
(w/o enclosures)