



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 21, 2010

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2010-07343

Dear Ms. Villarreal:

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# 380213 (City Reference No. LGL-10-303).

The Waco Police Department (the "department") received a request for information pertaining to a specified address on a specified date. You indicate the department has released some of the requested information. You claim that some of 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.

Section 552.101 of Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. 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 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. See Open Records Decision No. 649 (1996). These sections make the originating telephone number and address of a 9-1-1 caller that are furnished by a 9-1-1 service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You state the City of Waco is part of an emergency communication district established under chapter 772. You have highlighted the numbers you seek to withhold under section 772.318. Upon review, we conclude the department must withhold the caller's originating telephone

number, which we have marked, under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The remaining highlighted numbers are the telephone and pager numbers and the numerical gate code of the apartment complex at which the incident occurred. Because these numbers are not the originating telephone number of the 9-1-1 caller, they may not be withheld under section 552.101 in conjunction with section 772.318.

We understand you to assert some of the information you have marked is an access device number you seek to withhold under section 552.136 of the Government Code pursuant to Open Records Decision No. 684. *See* ORD 684 (2009). We note Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision. Section 552.136 provides as follows:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

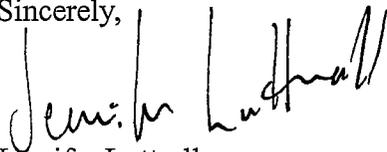
(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. Open Records Decision No. 684 authorizes a governmental body to withhold the following types of access device numbers pursuant to section 552.136(b) of the Government Code: an insurance policy number, bank account number, bank routing number, credit card number, debit card number, charge card number, or any portion of those numbers. *See* ORD 684 at 9. The information you have marked consists of a numerical code to open the gate of an apartment complex. Because this information is not one of the types of access device numbers listed in Open Records Decision No. 684, the department may not withhold it under section 552.136 on the basis of that previous determination. Further, you have not explained, and we cannot discern, how this number can be used to obtain money, goods, services, or another thing of value or initiate a transfer of funds. Accordingly, we find that you have failed to establish that the gate code number at issue is an access device number for purposes of section 552.136. Therefore, the department may not withhold this number under section 552.136. As you raise no further exceptions to disclosure, the remaining 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 380213

Enc. Submitted documents

c: Requestor
(w/o enclosures)