



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 10, 2010

Mr. Warren M. S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla, Room 7BN  
Dallas, Texas 75201

Attorney General of Texas

OR2010-08494

Dear Mr. Ernst:

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# 382162.

The City of Dallas (the "city") received a request for all documents related to a specified claim against the city. You state the city will provide some information to the requestor. You claim that the remaining information is excepted from disclosure under sections 552.101, 552.103, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note a portion of the submitted information is currently at issue in a lawsuit pending against the Office of the Attorney General: *City of Dallas v. Greg Abbott, Attorney Gen. of Tex.*, No. D-1-GV-09-001574 (201<sup>st</sup> Dist. Ct., Travis County, Tex.). We will not address whether the information at issue in the lawsuit is excepted under the Act, but will instead allow the trial court to determine whether this information must be released to the public.

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<sup>1</sup>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.

You assert the remaining information, which you have labeled Exhibit E, is confidential under section 552.101 of the Government Code. Section 552.101 of the Government Code exempts 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 section 773.091 of the Health and Safety Code, which is applicable to information relating to the provision of emergency medical services ("EMS") and provides in part:

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

(c) Any person who receives information from confidential communications or records as described by this chapter, other than a person listed in Section 773.092 who is acting on the survivor's behalf, may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.

Health & Safety Code § 773.091(b)-(c). Section 773.091 further provides, however, that

[t]he privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

*Id.* § 773.091(g). Upon review, we find that the information in Exhibit E constitutes EMS records that are generally confidential under section 773.091. We note that records that are confidential under section 773.091 may be disclosed to "any person who bears a written consent of the patient or other persons authorized to act on the patient's behalf for the release of confidential information." *Id.* §§ 773.092(e)(4), .093. Section 773.093 provides that a consent for release of EMS records must specify (1) the information or records to be covered by the release; (2) the reasons or purpose for the release; and (3) the person to whom the information is to be released. You state that none of the exceptions to confidentiality are applicable to the information in Exhibit E. Therefore, the city must withhold Exhibit E under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code, except as specified by section 773.091(g).

In summary, we decline to issue a decision regarding the information at issue in the pending litigation between the city and our office but will instead allow the trial court to determine whether this information must be released to the public. The city must withhold the

submitted EMS records under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code, except as specified by section 773.091(g).

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](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,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/dls

Ref: ID# 382162

Enc. Submitted documents

c: Requestor  
(w/o enclosures)