



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 5, 2012

Ms. Alexis G. Allen
For City of Rowlett
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2012-03276

Dear Ms. Allen:

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# 447048.

The City of Rowlett (the "city"), which you represent, received a request for a list of (1) all false burglar alarms the police responded to for a specified time period, (2) all fines/invoices the police or city hall sent out to individuals who had false alarms without a permit or had reached the threshold for false alarms and needed to be penalized, and (3) all alarm permits that are on file for a specified period of time.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² You also inform us that release of this information may implicate the proprietary interests of PMAM Corporation ("PMAM"). Accordingly, you notified PMAM of the request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act

¹We note the city received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

²Although you also raise section 552.1018 of the Government Code for the submitted information, we note that this section does not exist. Thus, we understand you to raise section 552.108 of the Government Code. However, because you did not submit to this office written comments stating the reasons why this section would except any of the submitted information and you have not identified any information you seek to withhold under this exception, we assume you no longer assert section 552.108. *See* Gov't Code §§ 552.301, .302.

in certain circumstances). We have considered the exception you claim and reviewed the submitted representative sample of information.³

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, PMAM has not submitted comments to this office explaining why any of the submitted information should not be released. Therefore, we have no basis to conclude that PMAM has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold any portion of the submitted information based upon the proprietary interests of PMAM.

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. This section encompasses section 1702.284(a) 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 [Texas Private Security Board], to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

Occ. Code § 1702.284(a); *see also id.* § 1702.002(1)(A)(ii) (defining "alarm system" as electronic equipment and devices designed to detect or signal the occurrence of robbery or other emergency). Upon review, we conclude the information we have marked is generally confidential under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. We note section 1702.284(a) provides that information "that concerns the location of an alarm system [or] the name of the occupant of an alarm system location" is protected from disclosure. *See id.* § 1702.284(a). Accordingly, to the extent the marked telephone numbers correspond to an alarm system location or the name of the occupant of an alarm system location, we conclude the city must generally withhold this information under section 552.101 in conjunction with section 1702.284. To the extent the marked telephone numbers do not so correspond, the city may not withhold

³We assume 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 those records contain substantially different types of information than that submitted to this office.

this information under section 552.101 on that basis. In either instance, the city must generally withhold the resident and business names and addresses we have marked under section 552.101 in conjunction with section 1702.284.

We note, however, section 1702.284(a) further provides that information made confidential by this section may be disclosed “to the alarm company to which the confidential records relate[.]” *Id.* In this instance, the requestor is a representative of an alarm system company. Therefore, to the extent any of the marked information relates to the requestor’s company, that information may not be withheld under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code, and, instead, must be released to the requestor. Otherwise, the resident and business names and addresses we have marked must be withheld under section 552.101 in conjunction with section 1702.284. To the extent the telephone numbers we have marked correspond to an alarm system location or the name of the occupant of an alarm system, the telephone numbers must also be withheld under section 552.101 in conjunction with section 1702.284. However, you have failed to demonstrate how any portion of the remaining information concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used. Accordingly, no portion of this information may be withheld under section 552.101 in conjunction with section 1702.284. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As you raise no other exceptions to disclosure of any of the remaining information, the city must release it.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/dls

Ref: ID# 447048

Enc. Submitted documents

c: Requestor
(w/o enclosures)