



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 12, 2012

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2012-03702

Dear Ms. Guillen Graham:

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# 447347.

The City of Mesquite (the "city") received a request for the following categories of information pertaining to a specified address: (1) underground storage tanks; (2) above ground storage tanks; (3) fires, spills, releases; and (4) inspections. You state the city does not have any information responsive to categories 1, 2, or 3 of the request.¹ You claim some of 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 representative sample of information.²

¹We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

²We 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 that those records contain substantially different types of information than that submitted to this office.

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 a robbery or other emergency). Upon review, we find 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 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. *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 of the Government Code in conjunction with section 1702.284 of the Occupations Code. To the extent the marked telephone numbers do not so correspond, the city may not withhold this information under section 552.101 on that basis. In either instance, the city must withhold the remaining information we have marked under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. However, you have failed to demonstrate how any portion of the remaining information you have marked 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 of the Government Code in conjunction with section 1702.284 of the Occupations Code. *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,

A handwritten signature in black ink, appearing to read "Jennifer Luttrall". The signature is written in a cursive style with a large initial "J".

Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 447347

Enc. Submitted documents

c: Requestor
(w/o enclosures)