



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2012

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

OR2012-19803

Dear Ms. 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# 473177.

The City of Mesquite (the "city") received a request for information related to a specified address, including fuel or chemical storage activities, emergency responses to fires, hazardous material responses, spills, and releases or observations noted during routine fire inspections. 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 information.

Initially, we note you only submitted information related to emergency responses to fires. We assume, to the extent any remaining responsive information existed in the possession of the city when it received the request for information, you have released it to the requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.*

§ 552.101. This exception encompasses information other statutes make confidential. Section 1702.284 of the Occupations Code provides in part:

(a) 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 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). You assert a portion of the submitted information may be confidential under section 1702.284(a). We note the information at issue concerns smoke detectors. You have not demonstrated, nor is it otherwise clear to this office, this information is either “contained in alarm systems records” or “concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used.” *Id.* § 1702.284(a). We therefore conclude the city may not withhold any of the information at issue under section 552.101 of the Government Code on the basis of 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).

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Additionally, this office has determined common-law privacy protects the identities of juvenile offenders. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code §§ 58.007 (c) , 51.02(2) (defining “child” as a person who is ten years of age or older and under seventeen years of age). Upon review, we find none of the information you have marked is intimate or embarrassing and of no legitimate public interest. Therefore, the city may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further exceptions to disclosure, the city must release the submitted information.

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_or1.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 Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 473177

Enc. Submitted documents

c: Requestor
(w/o enclosures)