



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 23, 1998

Ms. Sandra C. Joseph  
Open Records Counsel/Disclosure Officer  
Office of the Comptroller of Public Accounts  
LBJ State Office Building  
111 East 17th Street  
Austin, Texas 78774

OR98-0232

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111838.

The Comptroller of Public Accounts (the "comptroller") received an open records request for all documents, in paper or electronic format, in the possession, custody, or control of the comptroller dealing with Loe's Highport, Inc. a/k/a Loe's Highport Marina ("Loe's"). You inform us that the comptroller seeks to withhold the documents pursuant to section 552.108 of the Government Code. We have considered your argument and reviewed the information submitted.

The comptroller's office is a law enforcement agency for purposes of administering the Tax Code as specifically addressed in the Texas Supreme Court's ruling in *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 678-679 (Tex. 1995). You explain that the information submitted to this office for review involves the comptroller's decision to investigate Loe's Highport Marina. Further, it is your belief that disclosure of this information will seriously impair the comptroller's ability to obtain the information necessary to conduct an effective investigation.

Section 552.108(a)(1) provides that information held by a law enforcement agency that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure if release of the information would interfere with the detection, investigation, or prosecution of crime. In *A&T Consultants*, the court agreed that the comptroller uses audits to further his law enforcement objectives. The audits are made confidential not by the Tax Code, but by section 552.108 of the Government Code, which

excepts from disclosure records generated by the comptroller in the process of enforcing the tax laws. *Id* at 678. Consequently, we agree that the comptroller has shown that section 552.108 is applicable and the information may be withheld from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/ glg

Ref: ID# 111838

Enclosures: Submitted documents

cc: Mr. M. Todd Welty  
Meadows, Owens, Collier, Reed,  
Cousins & Blau, L.L.P.  
3700 Nationsbank Plaza  
901 Main Street  
Dallas, Texas 75202  
(w/o enclosures)