



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 13, 2007

Mr. Ronald J. Bounds  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2007-14795

Dear Mr. Bounds:

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# 294823.

The City of Corpus Christi (the "city") received a request for four categories of information relating to certain signs, including code enforcement records. You state that some of the requested information has been released. You claim that the remaining information is excepted from disclosure under sections 552.108 and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.108 of the Government Code excepts from disclosure certain records of law enforcement agencies and prosecutors. This exception is applicable only to records created by an agency, or a portion of an agency, whose primary functions are the investigation of crimes and the enforcement of criminal laws. *See* Open Records Decision Nos. 493 (1988), 287 (1981). Section 552.108 is generally not applicable to records created by an agency whose chief function is essentially regulatory in nature. *See* Open Records Decision No. 199 (1978). You inform us that the Code Enforcement Division (the "division") of the city's Neighborhood Services Department primarily investigates alleged criminal violations of city ordinances, including illegal placement of signs in rights-of-way and resulting obstructions of traffic, and refers such offenses for prosecution in municipal court. Based on your representations, we find that the division is a law enforcement agency for the purposes of section 552.108.

Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have marked the information that the city seeks to withhold under section 552.108. You state that the marked information is related to ongoing criminal investigations that are being conducted by the division for potential referral to municipal court. We note, however, that the information in question is contained in citations. Because a copy of a citation is provided to the individual who is cited, we find that the release of the portions of the submitted citations that were provided to the cited individuals will not interfere with the detection, investigation, or prosecution of crime. In this instance, the submitted citations reflect that the front pages of the citations were provided to the individuals who were cited. Therefore, the city may not withhold the front pages of the citations under section 552.108(a)(1). It is not clear, however, whether the remaining pages of the citations were provided to the cited individuals. Accordingly, we must rule in the alternative. We therefore conclude that, to the extent that the remaining pages of the citations were provided to the cited individuals, they may not be withheld under section 552.108(a)(1). To the extent that the remaining pages of the citations were not provided to the cited individuals, they may be withheld under section 552.108(a)(1). *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that the front pages of the citations contain Texas driver’s license information. Section 552.130 of the Government Code excepts from disclosure information that is related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.<sup>1</sup> *See* Gov’t Code § 552.130(a)(1). The city must withhold the Texas driver’s license information that we have marked under section 552.130.

Section 552.137 of the Government Code provides that “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its public disclosure. *Id.* § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. You state that the

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<sup>1</sup>Unlike other exceptions to disclosure under the Act, this office will raise section 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

owner of the e-mail address that you have marked has not affirmatively consented to its disclosure. Based on your representation, we conclude that the city must withhold that e-mail address under section 552.137. We have marked another e-mail address that also must be withheld under section 552.137, unless the owner has consented to its disclosure.

In summary: (1) except for the marked Texas driver's license information that must be withheld under section 552.130 of the Government Code, the front pages of the citations must be released; (2) to the extent that the remaining pages of the citations were not provided to the cited individuals, they may be withheld under section 552.108(a)(1) of the Government Code; and (3) along with the e-mail address that you have marked, the city also must withhold the e-mail address that we have marked under section 552.137 of the Government Code, unless the owner of the second e-mail address has consented to its disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

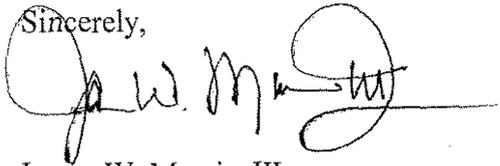
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 294823

Enc: Submitted documents

c: Mr. Ira L. Black  
914 St. Christopher Street  
Corpus Christi, Texas 78418  
(w/o enclosures)