



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 4, 2009

Ms. Patrice Fogarty  
City Secretary  
City of Missouri City  
1522 Texas Parkway  
Missouri City, Texas 77489

OR2009-17201

Dear Ms. Fogarty:

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# 362157.

The City of Missouri City (the "city") received a request for a specified video recording. You claim that the submitted information is excepted from disclosure under section 552.148 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You inform us that the city has previously released the information at issue to the public. Section 552.007 provides that if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See* Gov't Code 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the city may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential by law. You assert the submitted information is excepted from disclosure under section 552.148 of the Government Code. Section 552.148 makes information confidential by law. Thus, regardless of whether the

information at issue has been previously released, we must address whether the submitted information must now be withheld pursuant to section 552.148 of the Government Code.

Section 552.148 of the Government Code provides in part:

(a) In this section, "minor" means a person younger than 18 years of age.

(b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:

(2) a photograph of the minor[.]

Gov't Code § 552.148(a), (b)(2). The video recording at issue contains the images of minors participating in a recreational activity at a city park. *Cf. Kopplin v. City of Garland*, 869 S.W.2d 433, 441 (Tex. App.—Dallas 1993, writ denied) (playing on city playground equipment is a recreational activity for purposes of chapter 75 of the Civil Practice and Remedies Code). Accordingly, the submitted information must be withheld under section 552.148 of the Government Code.

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](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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 362157

Enc. Submitted documents

c: Requestor  
(w/o enclosures)