



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 4, 2011

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2011-11256

Dear Ms. Grace:

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# 426832.

The City of Austin (the "city") received a request for information involving a named restaurant and violations of city ordinances. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the information you submitted.²

Section 552.108 of the Government Code 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). We note section 552.108 is generally applicable only to records created by an agency, or a portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See*

¹Although you initially also raised sections 552.103, 552.107, and 552.111 of the Government Code, you have withdrawn your assertion of those exceptions.

²This letter ruling assumes the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the city to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

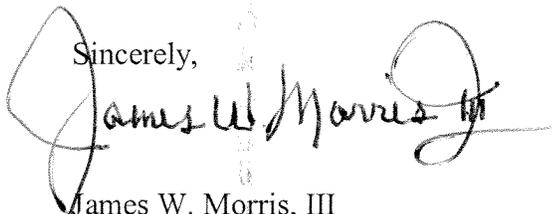
Open Records Decision Nos. 493 (1988), 287 (1981). Section 552.108 is generally not applicable to records created by an agency whose chief function is essentially regulatory in nature. *See* Open Records Decision No. 199 (1978). You inform us the city's Planning and Development Review Department includes an Environmental Inspection Section (the "EIS") that investigates alleged violations of certain city ordinances. You explain EIS personnel are authorized to enforce the ordinances by issuing criminal citations to violators for the purpose of prosecuting the violations in the city's municipal court. You state violations of the ordinances concerned are Class C misdemeanors. Based on your representations, we conclude the EIS is a law enforcement agency for purposes of section 552.108.

A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See* Gov't Code § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state EIS has filed a Class C complaint in municipal court under sections 25-1-361, 25-1-391, and 25-1-462 of the city code. You contend release of the submitted information would interfere with the case. Based on your representations and our review of the information at issue, we conclude the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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,



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

JWM/em

Ref: ID# 426832

Enc: Submitted documents

c: Requestor
(w/o enclosures)