



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 8, 2012

Ms. Lizbeth Islas Plaster
City Attorney
City of Lewisville
P.O. Box 299002
Lewisville, Texas 75029-9002

OR2012-06764

Dear Ms. Plaster:

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# 454411.

The City of Lewisville (the "city") received a request for information pertaining to a specified address since January 1, 2011 and a specified investigation. You state the city has released some of the requested information, but claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You assert some of the submitted information is excepted from disclosure under section 552.108(a) of the Government Code, which excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you seek to withhold under section 552.108(a)(1) relates to a pending criminal investigation. Based on this representation, we conclude the release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ*

ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). Thus, the city may withhold the information at issue under section 552.108(a)(1).

We note some of the submitted information you do not seek to withhold under section 552.108(a)(1) is excepted from disclosure under section 552.136 of the Government Code.¹ Section 552.136 provides in part the following:

(a) In this section, “access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136(a)-(b). Thus, the city must withhold the account numbers we have marked under section 552.136 of the Government Code.

To conclude, the city may withhold the information at issue under section 552.108(a)(1) of the Government Code. The city must withhold the account numbers we have marked under section 552.136 of the Government Code. The city must release the remaining information.²

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

²The requestor has, pursuant to section 552.023 of the Government Code, a special right of access to her driver's license, account, and social security numbers, as well as information that is confidential under common-law privacy, in the information being released. If the city receives a request for this information from a different requestor, the city is authorized to redact the driver's license number of the requestor under section 552.130(c) and her account number under section 552.136(c) without the necessity of requesting a decision under the Act. Gov't Code §§ 552.130(c)-(e), 552.136(c)-(e). Additionally, section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without requesting a decision. However, the city must again seek a decision from this office if it receives from a different requestor another request for the information that is confidential under common-law privacy.

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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 454411

Enc. Submitted documents

c: Requestor
(w/o enclosures)