



April 19, 1999

Mr. Robert J. Gervais
Assistant City Attorney
Legal Department
P.O. Box 779
Galveston, Texas 77553-0779

OR99-1049

Dear Mr. Gervais:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123445.

The City of Galveston (the "city") received a request for the following information:

- (1) the city ordinance which allowed the Parking Meter Number 2023 G to be located on Avenue G, between 20th Street and 21st Street,
- (2) the maintenance schedule for Parking Meter Number 2023 G,
- (3) the city's policy on broken parking meters,
- (4) the administrative procedure for city employees designated to write citations for parking meter violations when the parking meter is not functioning correctly.

You furnished to this office a representative sample of the requested information.¹ You claim that the requested information is excepted from disclosure under section 552.108 of

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit a representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure

(a) Information 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

Gov't Code § 552.108(a). You state that the case involving the requestor's parking citation is currently pending in the Municipal Court. You have established that the requested information is related to the pending prosecution of the requestor; however, the city ordinances must be disclosed.

This office has held that city ordinances fall into that category of documents that must be made available to the public as a matter of due process.

Where compelling public policy based on constitutional considerations or law outside the Open Records Act requires public access to information, its relationship to litigation cannot justify withholding it. *See* Open Records Decision Nos. 221 (1979) (minutes of public meetings); 146 (1976) (election returns); 43 (1974) (information made public by statute).

. . . The law, binding upon every citizen, is free for publication to all. *Banks v. Manchester*, 128 U.S. 244, 253 (1888). This policy is based on the concept of due process which requires that the people have notice of the law. *Building Officials & Code Admin. v. Code Technology, Inc.*, 628 F. 2d 730, 734 (1st Cir. 1980). Given this constitutional consideration, it is difficult to hypothesize a circumstance that would bring a law or ordinance within an exception to public disclosure.

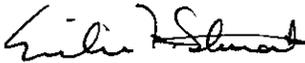
Open Records Decision No. 551 (1990). In an earlier decision involving the minutes of a school board meeting, this office stated:

It is clear that official records of the public proceedings of a governmental body are among the most open of records. . . . Open Records Decision Nos. 91 (1975), 60 (1974).

Open Record Decision No. 221 at 1 (1979). You must release the city ordinances. You may withhold the remaining requested information under section 552.108 of the Government Code, although you may choose to release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.

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.

Sincerely,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 123445

Encl: Submitted documents

cc: Avril Lynn Edwards
2922 Somerset
Texas City, Texas 77590
(w/o enclosures)