



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 27, 2009

Ms. Cara Leahy White
Taylor, Olson, Adkins, Sralla, & Elam
6000 Western Place, Suite 200
Ft. Worth, Texas 76107-4654

OR2009-05552

Dear Ms. White:

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# 345626.

The City of Southlake (the "city"), which you represent, received a request for information pertaining to a specified incident involving the requestor. You claim that the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a). 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 id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note the submitted information includes a citation. Because the citation has been provided to the individual who was cited, we find that release of this information will not interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). Therefore, the city may not withhold the citation, which we have marked, under section 552.108(a)(1). You state the remaining information at issue relates to an ongoing

criminal prosecution in the city's Municipal Court. Based on this representation and our review, we conclude the city may withhold the remaining information at issue 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).

You also assert the citation at issue is subject to section 552.103 of the Government Code, which enables a governmental body to protect its position in litigation by forcing parties to obtain information relating to litigation through discovery procedures. See Gov't Code § 552.103; see also Open Records Decision No. 551 at 4-5 (1990). We note, however, that section 552.103 does not apply to information that has been provided to or seen by an opposing party to litigation involving a governmental body. See Open Records Decision Nos. 349 (1982), 320 (1982). Because the submitted citation has already been provided to the opposing party to litigation in this instance, it may not be withheld under section 552.103.

You assert the citation contains information subject to section 552.130. Section 552.130 exempts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. See Gov't Code § 552.130(a)(1)-(2). We note that section 552.130 protects personal privacy and that the requestor is the individual whose information is at issue. Accordingly, the requestor has a right of access to her own Texas-issued driver's license number and motor vehicle registration information under section 552.023 of the Government Code, and it may not be withheld under section 552.130. See *id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987).

In summary, except for the submitted citation, which we marked for release, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

~~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~~

¹We note that because the requestor has a special right of access to information within the citation, the city must again seek a decision from this office if it receives another request for the same information from another requestor.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 345626

Enc. Submitted documents

c: Requestor
(w/o enclosures)