



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 28, 2009

Ms. Helen Valkavich  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2009-13611

Dear Ms. Valkavich:

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# 356516 (San Antonio file no. 09-0841).

The City of San Antonio (the "city") received a request for seven categories of information related to case numbers 21429663 and 21425874, and the related investigations of the requestor's property. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the information you submitted for review is not responsive to the request for information because it was created after the instant request for information was received by the city. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information, which we have marked, in response to this request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).<sup>1</sup>

You assert the responsive information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

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<sup>1</sup>As this determination is dispositive of your claim under section 552.101 of the Government Code, we need not address your claim under that section.

prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108. Section 552.108 applies 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* Open Records Decision Nos. 493 (1988), 287 (1981). This section 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). An agency that does not qualify as a law enforcement agency may, under limited circumstances, claim that section 552.108 protects records in its possession. *See, e.g.*, Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 493 (1988), 272 (1981). If an administrative agency’s investigation reveals possible criminal conduct that the administrative agency intends to report to the appropriate law enforcement agency, section 552.108 will apply to information gathered by the administrative agency if its release would interfere with law enforcement. *See* Gov’t Code § 552.108(a)(1), (b)(1); Attorney General Opinion MW-575; Open Records Decision Nos. 493, 272.

You state the submitted information, which is maintained by the city’s Code Enforcement Division (the “division”), pertains to violations of the city’s Neighborhood Housing Enforcement Code. You have not informed this office that the submitted information reveals criminal conduct that the division intends to report to the city’s police department or other law enforcement agency. Accordingly, we find you failed to establish how release of the responsive information would interfere with law enforcement, and it may not be withheld under section 552.108(a)(1). As you raise no other exceptions to disclosure of the responsive information, it must be released in its entirety.

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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/dls

Ref: ID# 356516

Enc. Submitted documents

c: Requestor  
(w/o enclosures)