



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 22, 2012

Mr. Dick H. Gregg, III  
For the City of Kemah  
Gregg & Gregg, P.C.  
16055 Space Center Blvd., Suite 150  
Houston, Texas 77062

OR2012-02761

Dear Mr. Gregg:

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# 446230.

The City of Kemah (the "city"), which you represent, received a request for (1) any claims to the Texas Municipal League and (2) any correspondence to "the District Attorney's Office," the Office of the Attorney General, the Federal Bureau of Investigation, and the Department of Justice. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.107, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup> We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note the information submitted as Exhibit D and portions of Exhibit E were the subjects of previous requests for information, in response to which this office issued Open

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<sup>1</sup>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). 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.

Records Letter Nos. 2011-11822 (2011), 2011-12150 (2011), 2012-00549 (2012), and 2012-02459 (2012). We are unaware of any change in the law, facts, and circumstances on which the previous rulings are based. Therefore, the city must continue to rely on Open Records Letter Nos. 2011-11822, 2011-12150, 2012-00549, and 2012-02459 as previous determinations and withhold or release Exhibit D and the information previously ruled upon in Exhibit E in accordance with those rulings.<sup>2</sup> *See id.* § 552.301(f); Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As no further exceptions to disclosure have been raised for the remaining information in Exhibit E, it must be released.

Section 552.108(a)(1) 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). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information in Exhibit C pertains pending criminal investigations and prosecutions. Based on your representation and our review, we conclude release of Exhibit C 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, section 552.108(a)(1) is generally applicable to the information at issue.

However, we note, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-7; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.<sup>3</sup>

In summary, the city must continue to rely on Open Records Letter Nos. 2011-11822, 2011-12150, 2012-00549, and 2012-02459 as previous determinations and withhold or release Exhibit D and the information previously ruled upon in Exhibit E in accordance with

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

those rulings. With the exception of basic information, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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,

A handwritten signature in black ink, appearing to read 'Nneka Kanu', written over a light blue horizontal line.

Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 446230

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)