



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 5, 2012

Mr. David Sorola
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR2012-04907

Dear Mr. Sorola:

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# 449715.

The City of Austin (the “city”) received a request for information pertaining to code violations related to six specified properties. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.108 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). As you acknowledge, section 552.108 applies only to records created by an agency, or a portion of an agency, whose primary function is the investigation of crimes and enforcement of criminal laws. *See* Open Records Decision Nos. 493 (1988), 287 (1981). Section 552.108 is generally not applicable to records created by an agency whose chief function is essentially regulatory in

¹We 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.

nature. *See* Open Records Decision No. 199 (1978). 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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You inform us the city's code department (the "department") investigates alleged violations of the city's ordinances, including sections 25-12-212 and 25-12-213 of the Austin City Code (the "city code"), a copy of which you have enclosed. You also provide documentation reflecting a violation of the city code is a misdemeanor, and explain department personnel are authorized to enforce the ordinances at issue by issuing criminal citations to violators for the purpose of prosecuting such violations in the city's municipal court. Based on your representations, we agree the department is a law enforcement agency for the purposes of section 552.108. You state release of the information you have highlighted 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). Therefore, based on your representations and our review, we agree the city may withhold the information you highlighted pursuant to section 552.108(a)(1) of the Government Code. As you raise no further exceptions against disclosure, the remaining information at issue 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, 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 449715

Enc. Submitted documents

c: Requestor
(w/o enclosures)