



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2013

Mr. Zachariah T. Evans
Akers Law Firm, LLP
6618 Sitio Del Rio, Building E, Suite 102
Austin, Texas 78730

OR2013-20425

Dear Mr. Evans:

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# 507424.

The City of Bandera (the "city"), which you represent, received a request for "a copy/list of all sign violations delivered on [September 17, 2013] and the name of the person/business, who filed the complaint." The city claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.108 of the Government Code provides in part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1), (2). We note the protections offered by subsections 552.108(a)(1) and 552.108(a)(2) of the Government Code are, generally, mutually exclusive. Subsection 552.108(a)(1) generally applies to information that pertains to criminal

investigations or prosecutions that are currently pending, while subsection 552.108(a)(2) protects law enforcement records that pertain to criminal investigations and prosecutions that have concluded in final results other than criminal convictions or deferred adjudications. A governmental body claiming subsection 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body that claims subsection 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A).

You assert some of the submitted information pertains to code violations that are currently being investigated by the city code enforcement office, and other information pertains to investigations that concluded in results other than conviction or deferred adjudication. However, you have not identified which of the submitted information pertains to the ongoing criminal cases, and which pertains to the closed investigations. Thus, we find you have failed to demonstrate the applicability of section 552.108(a)(1) or 552.108(a)(2) to the submitted information. *See id.* § 552.301(e)(1)(A), (2) (governmental body must label information to indicate which exceptions apply to which parts of information). Therefore, the city may not withhold the submitted information under section 552.108(a)(1) or 552.108(a)(2). Accordingly, the city must release the submitted information to the requestor.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 507424

Enc. Submitted documents

c: Requestor
(w/o enclosures)