



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 8, 2014

Ms. Molly Taylor  
City Secretary  
City of Alpine  
100 North 13<sup>th</sup> Street  
Alpine, Texas 79830

OR2014-05770

Dear Ms. Taylor:

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# 519030.

The City of Alpine (the "city") received a request for the following: 1) contracts, agreements, and documents regarding the city's financial obligations for services provided by the city's attorney; 2) the minutes of a specified city council meeting; 3) documents detailing the interim salary for a named city employee; and 4) any correspondence or document from any law enforcement agency requesting documents from the city in an investigation into financial irregularities. You claim the submitted information is exempted from disclosure under sections 552.101 and 552.108 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted information responsive to category four of the request. Therefore, to the extent the city maintained any information responsive to the other categories of the request, we assume you have released any such information. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108(a)(1) of the Government Code exempts 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

---

<sup>1</sup>Although you do not cite to sections 552.101 and 552.108 of the Government Code in your brief, we understand you to raise these sections based on your arguments.

governmental body claiming section 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). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You state the United States Attorney's Office for the Western District of Texas has advised the city it objects to disclosure of the information at issue because its release would interfere with a pending criminal investigation. Based on your representation, we conclude the city may withhold the information under section 552.108(a)(1) of the Government Code on behalf of the United States Attorney's Office for the Western District of Texas.<sup>2</sup> *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).

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](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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/tch

---

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

Ref: ID# 519030

Enc. Submitted documents

c: Requestor  
(w/o enclosures)