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ATTORNEY GENERAL OF TEXAS

April 11, 2016

Mr. David D. Towler  
Counsel for City of Alice  
Law Offices of David D. Towler  
P.O. Box 569  
San Diego, Texas 78384

OR2016-08060

Dear Mr. Towler:

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# 605284.

The City of Alice (the "city"), which you represent, received a request for any documents or records concerning investigations conducted by the Alice Police Department regarding the city's multi-use complex facility. You state you have released some information. You claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

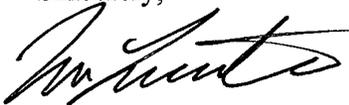
Initially, you ask whether the requestor has a right of access to the submitted information as a city council member. The purpose of the Act is to prescribe conditions under which members of the general public can obtain information from a governmental body. *See* Attorney General Opinion JM-119 (1983) (statutory predecessor). An official of a governmental body who, in an official capacity, requests information held by the governmental body is not acting as a member of the public in doing so. Thus, exceptions to public disclosure under the Act do not control the official's right of access to information maintained by the governmental body. *See id.* at 3 (member of community college district board of trustees, acting in official capacity, has an inherent right of access to information maintained by district). In this instance, you state the requestor is a city council member. We note the requestor signed his request "Alice City Council member." Further, the

requestor states he is seeking the information at issue in his official capacity as a city council member. Thus, we understand the requestor was acting in his official capacity in requesting the information. The requestor, therefore, has an inherent right of access to this information, and it must be provided to him.<sup>1</sup> The release of this information in this specific instance does not constitute a release to the general public; thus, the city does not waive any potential exceptions to the disclosure of the information. *See* Open Records Decision No. 666 at 4 (2000) (municipality's disclosure to municipally-appointed citizen advisory board does not constitute release to public as contemplated under section 552.007 of Government Code). We note that because the release of this information to the city council member is not a release to the public, the requestor must be cautious in maintaining the information in the same manner it is maintained by the city. *See generally* Gov't Code § 552.352 (criminal penalties imposed for release of confidential information).

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,



Ian Lancaster  
Assistant Attorney General  
Open Records Division

IML/akg

Ref: ID# 605284

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As we are able to make this determination, we need not address the city's argument against disclosure.