



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2020

Ms. L. Carolyn Nivens
Counsel for the City of Seabrook
Ross, Banks, May, Cron & Calvin, P.C.
7700 San Felipe, Suite 550
Houston, Texas 77063

OR2020-01893

Dear Ms. Nivens:

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# 812904 (ORR## 3957/LN & PIA2019-71).

The City of Seabrook (the "city") received two requests for information pertaining to a specified motor vehicle accident. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2019-32460 (2019). As we have no indication the law, facts, and circumstances on which the prior rulings were based have changed, the department may continue to rely on that ruling as a previous determination and withhold or release the submitted information in accordance with Open Records Letter No. 2019-32460.¹ *See* 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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information was not previously ruled on, we will address your submitted arguments.

¹ As our ruling is dispositive, we need not address your arguments against disclosure of this information.

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 claiming section 552.108(a)(1) must 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). The city states the remaining information pertains to a pending criminal investigation. Based on your representation, we conclude the release of the information at issue 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, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

In summary, to the extent the submitted information is identical to the information previously submitted and ruled upon by this office, the city may continue to rely on Open Records Letter No. 2019-32460 as a previous determination and withhold or release the submitted information in accordance with that ruling. The city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/rm

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Ms. L. Carolyn Nivens - Page 3

Ref: ID# 812904

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)