



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 7, 2022

Ms. Shea Smith
Assistant City Attorney
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77487-0110

OR2022-00679

Dear Ms. Smith:

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# 924988 (ORR No. W012883).

The City of Sugar Land (the "city") received a request for code enforcement records pertaining to a specified address. You claim 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.

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 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). This section is generally not applicable to records created by an agency whose chief function is essentially regulatory in nature. *See Open Records Decision No. 199* (1978). However, section 552.108 does apply to records created by an agency whose primary function is to investigate crimes and enforce criminal laws. *See Open Records Decision Nos. 493* (1988), 287(1981).

You state the submitted information pertains to a pending investigation, which we note is being conducted by the city's Code Enforcement Division. We understand code enforcement violations are subject to criminal enforcement in the city's municipal court. You further state the release of the submitted information would unduly interfere with the

pending investigation. We note, however, the information at issue contains notices of code violations. Because a copy of this information was provided to the alleged offender, we find you have failed to demonstrate the release of this information will interfere with the detection, investigation, or prosecution of crime. Thus, the city may not withhold the notices of code violations under section 552.108(a)(1). However, based on your representations and our review, we find the release of the remaining 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, section 552.108(a)(1) is applicable to the remaining information at issue. Thus, with the exception of the notices of code violations, which must be released, the city may withhold the submitted 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/ba

Ref: ID# 924988

Enc. Submitted documents

c: Requestor
(w/o enclosures)