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ATTORNEY GENERAL OF TEXAS

August 17, 2022

Mr. Ryan Henry
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Law Offices of Ryan Henry, P.L.L.C.
1019 Central Parkway North, Suite 108
San Antonio, Texas 78232

OR2022-24510

Dear Mr. Henry:

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# 966410 (Reference Nos. PRR-149-2022 and PRR-150-2022).

The City of Windcrest (the "city"), which you represent, received two requests from the same requestor for certain information pertaining to incident number 1918830. You state the city has released basic information to the requestor. *See* Gov't Code § 552.108(c) (section 552.108 does not except from public disclosure basic information about arrested person, arrest, or crime). You claim some of the requested information is not subject to the Act. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, you state the some of the requested information is held by the city's municipal court. Section 552.003(b) of the Government Code excludes the judiciary from the Act. Therefore, the Act neither authorizes information held by the judiciary to be withheld nor requires that it be disclosed. *See* Open Records Decision No. 25 (1974). Accordingly, to the extent the requested information at issue is maintained solely by the city's municipal court, it is not subject to release under the Act and need not be released in response to the present requests.¹ *See* Gov't Code § 552.0035 (access to information maintained by or for

¹ We note records of the judiciary may be public under other sources of law. *See* Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court

judiciary is governed by rules adopted by supreme court); Tex. R. Jud. Admin. 12 (public access to judicial records). However, to the extent the requested information at issue is also maintained by the city's municipal prosecutor, it is subject to the Act and we will consider your claimed exceptions to its disclosure.

Next, we note the submitted information consists of a court-filed petition that is subject to section 552.022(a)(17) of the Government Code. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record[.]" unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). Although you seek to withhold the submitted information under sections 552.103 and 552.108 of the Government Code, these sections are discretionary exceptions and do not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, the submitted court-filed document may not be withheld under section 552.103 or section 552.108. Accordingly, to the extent the submitted information is maintained by the city, it must be released pursuant to section 552.022(a)(17) of the Government Code.

In summary, to the extent any of the requested information is maintained solely by the city's municipal court, it is not subject to release under the Act and need not be released in response to the present requests. To the extent the submitted information is maintained by the city, the submitted information must be released pursuant to section 552.022(a)(17) of the Government Code.²

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.

order); *see also Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released); Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); ORD 25.

² In this instance, we note the information being released contains information to which the requestor has a right of access under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, we note section 552.1175(f) of the Government Code authorizes a governmental body to redact information under section 552.1175(b), without the necessity of requesting a decision from this office, including the home addresses and telephone numbers, emergency contact information, social security number, date of birth, and family member information of certain individuals who properly elect to keep this information confidential. *See* Gov't Code § 552.1175(b), (f). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.1175(h). *See id.* § 552.1175(g), (h).

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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/jxd

Ref: ID# 966410

Enc. Submitted documents

c: Requestor
(w/o enclosures)