

ALESHIRELAW

A PROFESSIONAL CORPORATION

700 LAVACA STREET, SUITE 1400
AUSTIN, TEXAS 78701

Bill Aleshire

Bill@AleshireLAW.com

512 320-9155 (call) 512 320-9156 (fax)

March 15, 2017

VIA EMAIL: Anne.Morgan@austintexas.gov

Anne Morgan, City Attorney
City of Austin, Texas
301 W. 2nd Street
Austin, Texas 78701

RE: Challenge to new rules for Public Information Requests

Dear Ms. Morgan,

I received the attached City press release from my client, The Austin Bulldog. The press release announces a change of rules of procedures for public information requests, indicating that the new procedures take effect next Monday, March 20th. The release says:

Pursuant to the Government Code, the city has designated two addresses as the only ones that will be used to accept PIRs.... *Requests sent to any other email at the City of Austin will not constitute an official records request.* (emphasis added)

I question the legality of this new procedure that may play “gotcha” or delay when common folks make requests to the City for public information. First of all, what authority does the staff have to impose such rules? Under the TPIA, only the City Council can promulgate such rules, and I have been unable to locate any such recent action by Council.

Tex. Gov’t Code

Sec. 552.230. RULES OF PROCEDURE FOR INSPECTION AND COPYING OF PUBLIC INFORMATION. (a) *A governmental body* may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay.

(b) A rule promulgated under Subsection (a) may not be inconsistent with any provision of this chapter.

The TPIA defines a “governmental body,” as it relates to the City, as the “governing body” not staff.

Sec. 552.003. DEFINITIONS. In this chapter:

(1) "Governmental body":

(A) means:

(iii) a municipal *governing body* in the state;....

Unless the City Council has adopted this new rule change for public information requests, I am prepared to challenge any indication that, if an APD-records request is sent to the Law Department’s Open Records division, the City will not consider it an official open records request. In my opinion, such a request will be “official,” and the TPIA deadlines will begin to run on such requests.

I also wonder how the public who accesses the City’s website would know about this change. The procedural change, set to begin 3 business days from now, is not on the Law Department’s Open Records website or on Communications Department websites:

<http://www.austintexas.gov/department/open-records>

<http://www.austintexas.gov/department/communications/media>

And I did a search from the City’s main web page using the title in the press release and did not find the press release.

Finally, as a matter of best-practices, I encourage the City to reconsider the requirement that the public must figure out which of two email addresses to use for public information requests. If this new rule takes effect, the public will have to know in advance which records are “held by APD” and which are not, suffering the danger that City staff will treat their request as not constituting “an official records request.” What about requests that may involve overlap of APD records and non-APD records? Can’t the City staff figure out how to keep a centralized portal for public information requests, and then route the requests (or portions thereof) to the appropriate departments?

Respectfully submitted,



Bill Aleshire
AleshireLAW, P.C.
700 Lavaca, Suite 1400
Austin, Texas 78701
Bill@AleshireLaw.com

From: [Bill Aleshire](#)
To: [Bill Aleshire](#)
Subject: FW: City of Austin Updates Public Information Request Procedure
Date: Wednesday, March 15, 2017 10:04:07 AM

From: City of Austin Communications <coacommunications@austintexas.gov>
Subject: **City of Austin Updates Public Information Request Procedure**
Date: March 15, 2017 at 8:59:46 AM CDT
To: <ken@theaustinbulldog.org>
Reply-To: City of Austin Communications <coacommunications@austintexas.gov>

Email not displaying correctly? [View it in your browser.](#)



For immediate release:

March 15, 2017

Contact: Amanda Brown, Public Information Manager (512) 974-2189

City of Austin Updates Public Information Request Procedure

The City of Austin has updated the procedure for submitting public information requests (PIRs) via email. This change will require all PIRs to be submitted to two specific email addresses and will go into effect Monday, March 20, 2017.

The Texas Public Information Act gives the public the right to access government records through public information requests. The City of Austin is committed to responding to all PIRs promptly and in accordance with the law. Pursuant to the Government Code, the city has designated two addresses as the only ones that will be used to accept PIRs.

For requests seeking records from all City departments, excluding the Austin Police Department, the designated email address is now public.information@austintexas.gov.

For records held by the APD, the designated email address is now management.records@austintexas.gov.

Requests sent to any other email at the City of Austin will not constitute an

official records request. All City staff have been instructed to respond to requests and direct people to the proper email addresses.

Public information requests can still be made online via the city's website:

<http://www.austintexas.gov/public-information-request>.

If you have questions about this change or about Public Information Requests you can contact Amanda Brown, Public Information Manager, at 512-974-2189.

###

[Follow on Twitter](#) [Friend on Facebook](#) [Forward to Friend](#)

[unsubscribe from this list](#) | [update subscription preferences](#)