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Carin Carroll
District Clerk
Titus County, Texas
Debbie Swindler

Cause No. 44437

KYLE DOUGLAS MORING *Petitioner,*	§ §	IN THE DISTRICT COURT
v.	§	TITUS COUNTY, TEXAS
The City of Mount Pleasant, *Respondent.*	§ §	76th JUDICIAL DISTRICT

THE CITY OF MOUNT PLEASANT'S PLEA TO THE JURISDICTION

TO THE HONORABLE JUDGE OF SAID COURT:

The City of Mount Pleasant, Texas ("the City") respectfully presents this Plea to the Jurisdiction and shows as follows:

I. INTRODUCTION

The City of Mount Pleasant is a governmental entity organized under the statutes of the State of Texas and, as a political subdivision of the State, enjoys governmental immunity from suit and liability. This suit was brought against the City by Petitioner seeking the Court to grant Mandamus relief under the Texas Public Information Act ("TPIA"). In this case, because Petitioner fails to make the requisite allegations to permit relief against the City under the TPIA, and because there is no factual basis to support Petitioner's claims, Petitioner's suit fails and the Court should grant the City's Plea to the Jurisdiction.

II. STANDARD OF REVIEW

Sovereign or governmental immunity "defeats a trial court's subject matter jurisdiction and thus is properly asserted in a plea to the jurisdiction." *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 225–26 (Tex. 2004). A plea to the jurisdiction challenges the trial court's jurisdiction over the subject matter of a pleaded cause of action. *Id.* at 226. Whether a court has subject matter jurisdiction is a question of law. *Id.* When the pleadings "affirmatively negate the existence of jurisdiction," the plea to the jurisdiction should be granted without leave to amend to correct any identified deficiencies. *Id.* at 227. Petitioner's pleadings make clear that the City has responded to his TPIA requests, and he does not allege any refusal by the City to provide records. Further, as the facts conclusively demonstrate, the City has repeatedly responded to Petitioner's requests for records.

III. AUTHORITIES

A. Mandamus Suits under the PIA

"The Public Information Act generally obligates state agencies to disclose information prepared in connection with official business promptly upon request, limits agencies' ability to make follow-up inquiries of requestors, and requires an agency attempting to withhold responsive information based on an exception to seek an opinion from the Attorney General within ten business days after receiving the request." *Tex. Comm'n on Env't Quality v. Paxton*, No. 23-0244, 69 Tex. Sup. Ct. J. 494, 2026 Tex. LEXIS 321, at *19 (Apr. 17, 2026); Tex. Gov't Code § 552.002.

The availability of mandamus relief under the TPIA is governed by Section 552.321, which provides:

> A requestor or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if [**(a)**] the governmental body ***refuses*** to request an attorney general's decision as provided by Subchapter G or [**(b)**] ***refuses*** to supply [**(i)**] public information or [**(ii)**] information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C.

Tex. Gov't Code § 552.321(a) (subparts and emphasis added for clarity).

By the plain language of the statute, a requestor may file suit to petition for writ of mandamus ***only*** under one of three circumstances, none of which are present here. *AIM Media Tex., LLC v. City of Odessa*, 663 S.W.3d 324, 334 (Tex. App.—Eastland 2023, pet. denied). To justify such relief and to permit such a suit, the City would have to have ***refused*** to provide records to the Petitioner. The City has not ***refused*** to provide records to Petitioner.

Further, at the Court's initial hearing on Petitioner's requested relief, the Court ordered Petitioner to submit a concise, enumerated list of documents that Petitioner contends the City has ***refused*** to provide in response to any of his TPIA requests. Rather than provide a short, enumerated list of documents, on August 11, 2026, Petitioner provided: 1) a "Focused Conferral Submission" related to Petitioner's Exhibits C, E, F, G, and I (*4 pages*); 2) the "Complete Written Requests" referencing what Petitioner infers to be the original TPIA requests to the City, underlying Exhibits C, E, F, G, and I (*10 pages*); and 3) the "Proposed Search Protocols" Petitioner suggested related to each of the five above-listed exhibits (*13 pages*). While the City does not believe that these documents comply with the Court's order, the City nonetheless reviewed Exhibits C, E, F, G, and I and responded to Petitioner on these items on August 25, 2026. *See* Exhibit "A". Petitioner responded on August 26, 2026, disputing certain aspects of the City's response. *See* Exhibit "B". The City

responded further to Petitioner's correspondence on August 27, 2026. *See* Exhibit "C." These exhibits are hereby incorporated by reference. These communications make clear that the City has responded to Petitioner's original TPIA requests, has provided supplemental responses to his continued pre-suit emails and arguments concerning the adequacy of the City's responses and searches, and has again researched and responded to his complaints, now in this suit. What is crystal clear is that the City has in no way ***refused*** to respond to Petitioner's TPIA requests. Quite the opposite—the City has ***repeatedly responded*** to his requests.

It is evident that Petitioner remains dissatisfied with the City's responses for various reasons — the manner in which the City has conducted its searches, the time it takes to complete the searches and provide the City's responses, the form of the City's responses, costs for providing documents to Petitioner, the lack of records that Petitioner believes the City should possess, etc. ***These complaints are not actionable complaints under the TPIA.*** For instance, a governmental body's mere delay in releasing information is not actionable under the TPIA. *Id*. Neither is a governmental body's dispute with the requestor regarding the costs for generating documents. *See Tex. Tech Univ. v. Dolcefino Communs., LLC*, 565 S.W.3d 442, 447 (Tex. App.—Amarillo 2018, no pet.). Nor is a governmental body's claim that "it simply does not have the information" actionable, since the governmental body cannot produce that which does not exist. *Id*.

Further, "[t]he Legislature's cho[se] to provide mandamus relief as the sole remedy available to requestors under section 552.321(a). That choice, which we must assume was deliberate, naturally incorporates Texas law's pre-existing limitations on mandamus relief, including limitations on jurisdiction." *Paxton v. Am. Oversight*, 716 S.W.3d 535, 540 (Tex. 2025). "In mandamus

actions against non-judicial officials, we have stated that mandamus may issue to compel public officials to perform ministerial acts,[1] as well as to correct a clear abuse of discretion by a public official." *Id*. at 541 (cleaned up).

Additionally, by this legislative design, Petitioner may not petition a district court for prospective relief for requests for public information not yet made. Tex. Gov't Code § 552.3215. Under Section 552.3215 of the PIA, an individual requestor is not permitted to bring a suit for such relief; rather, an action for declaratory relief may ***only*** be brought by a local district or county attorney. Section 552.3215 is not available to confer a waiver of immunity for the OAG's suit against the City. *City of Odessa*, 663 S.W.3d at 334.[2]

B. Governmental Immunity under the PIA

The TPIA—when properly utilized—is an immunity-waiving statute. *See Gates v. Tex. Dep't of Fam. & Protective Servs.*, No. 03-15-00631-CV, 2016 Tex. App. LEXIS 6598, 2016 WL 3521888, at *4 (Tex. App.—Austin June 23, 2016, pet. denied) (mem. op.) ("A statute shall not be construed as a waiver of sovereign immunity unless the waiver is effected by clear and unambiguous language."); *Mission Consol. Indep. Sch. Dist. v. Garcia*, 253 S.W.3d 653, 655 (Tex. 2008) ("Sovereign immunity and its counterpart, governmental immunity, exist to protect the State and its political subdivisions from lawsuits and liability for money damages."). As such, an action against a government body which does not fall under either Section 552.321 or Section 552.3215 does not result in a legislative waiver of immunity, and the district court hearing such an action lacks

[1] A ministerial act is one which "the law clearly spells out the duty to be performed by the official with sufficient certainty that nothing is left to the exercise of discretion." *Id*.

[2] Notably, this is distinct from an *ultra vires* claim ,which a requestor may bring against a governmental official for performance of ministerial acts. *Tex. Educ. Agency v. Hous. Indep. Sch. Dist.*, 660 S.W.3d 108, 116 (Tex. 2023).

jurisdiction to rule on the merits. *Wichita Falls State Hosp. v. Taylor*, 106 S.W.3d 692, 696 (Tex. 2003); *Dolcefino Communs., LLC*, 565 S.W.3d at 445 ("Claims that prerequisites to suit have not been met are properly asserted in a plea to the jurisdiction.").

A court may determine jurisdiction based on the pleadings, the facts, or both. *Alamo Heights Indep. Sch. Dist. v. Clark*, 544 S.W.3d 755, 770 (Tex. 2018). If the pleadings are challenged, the court must "determine if the [petitioner] has alleged facts affirmatively demonstrating" that the PIA's prerequisites have been met. *See Id*. As is evident by both the pleadings and the facts, the City has not refused to respond to Petitioner's TPIA requests. When "the evidence fails to raise a fact question on the jurisdictional issue, then the plea may be ruled upon as a matter of law." *Dolcefino Communs., LLC*, 565 S.W.3d at 445 (citation omitted). Accordingly, the City's immunity has not been waived, and the Court should grant the City's Plea to the Jurisdiction and dismiss this case for want of jurisdiction.

IV. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Respondent the City of Mount Pleasant prays that its Plea to the Jurisdiction be GRANTED in its entirety, and the case dismissed for want of jurisdiction.

Respectfully submitted,

DAVIDSON TROILO REAM & GARZA, P.C.
601 NW Loop 410, Suite 100
San Antonio, Texas 78216-5511
Tel: (210) 349-6484
Fax: (210) 349-0041

By: */s/ Lea A. Ream*

Lea A. Ream
State Bar No. 16636750
Email: lream@dtrglaw.com

Austin R. Beck
State Bar No. 24095881
Email: abeck@dtrglaw.com

ATTORNEYS FOR THE
CITY OF MOUNT PLEASANT, TEXAS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the person(s) listed below, in the manner(s) listed below, on this the 28th day of August 2026.

Kyle Douglas Moring *Sent Via E-File Notification*
[redacted]

PETITONER, pro se

/s/ Lea A. Ream
Lea A. Ream

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Lea Ream on behalf of Lea Ream
Bar No. 16636750
lream@davidsontroilo.com
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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Austin R. Beck		abeck@dtrglaw.com	8/28/2026 8:49:42 AM	SENT
Lea A. Ream		lream@dtrglaw.com	8/28/2026 8:49:42 AM	SENT
Marla Dial		mdial@dtrglaw.com	8/28/2026 8:49:42 AM	SENT
Kyle DMoring		[redacted]	8/28/2026 8:49:42 AM	SENT