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 BRIEF REGARDING THE TEXAS PUBLIC INFORMATION ACT

TO THE HONORABLE JUDGE OF SAID COURT:

The City of Mount Pleasant, Texas ("the City") respectfully presents this Brief to the Court, informing it of the relevant provisions of the Texas Public Information Act ("PIA") and caselaw. *See* Tex. Gov't Code § 552.321(a). The City shows as follows:

I. 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.

Under section 552.321 of the Texas Public Information Act:

> 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 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. *AIM Media Tex., LLC v. City of Odessa*, 663 S.W.3d 324, 334 (Tex. App.—Eastland 2023, pet. denied).

Notably, there are, therefore, several circumstances that are not actionable under the PIA. For instance, a governmental body's mere delay in releasing information is not actionable under the PIA. *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," 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).

By this legislative design, a requestor 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 PIA—when properly applied—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 522.321 or Section 552.3215 does not result in a legislative waiver of immunity and the district court hearing such an action lacks

[1] An 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 a *ultra vires* claim which a requester may bring against an 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*. But if evidence is introduced which raises a fact question regarding the statutory prerequisites, then a factfinder should resolve the fact issue. *Dolcefino Communs., LLC*, 565 S.W.3d at 445 (citation omitted). 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." *Id.* (citation omitted).

II. CONCLUSION

The City hopes the Court has found the above useful in the resolution of this matter.

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
E-mail: lream@dtrglaw.com

By: */s/ Lea A. Ream*
Lea A. Ream
State Bar No. 16636750

Austin R. Beck
State Bar No. 24095881

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 9th day of August 2026.

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

PETITONER, pro se

/s/ Lea A. Ream
Lea A. Ream