



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 21, 1991

Mr. Ernest A. Emerson
State Fire Marshal
State Board of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR91-515

Dear Marshal Emerson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13616.

The State Fire Marshal's Office has received a request for information relating to a complaint made concerning an above-ground storage tank. The request includes information about the nature of the complaint, the name, title and position of the complainant, and the date the complaint was filed. You do not object to release of some of the requested information, but claim that information which identifies or would tend to identify the complainant is excepted by the informer's privilege aspect of section 3(a)(1) of the Open Records Act.

The informer's privilege authorizes a governmental body to withhold information which would reveal the identity of persons who report possible violations of law to officials charged with enforcement of that law. Open Records Decision No. 462 (1987). Section 753.008 of the Health and Safety Code invests the state fire marshal with enforcement authority for violations of rules governing the maintenance of flammable liquids. You state that "an investigation concerning violations of Chapter 753 and rules adopted thereunder has commenced." Violations of rules adopted under chapter 753 constitute a Class B misdemeanor. Health & Safety Code § 753.011; *see also* Acts 1989, 71st Leg., ch. 1013, § 4. Because the state fire marshal is charged with law enforcement authority under

chapter 753 of the Health and Safety Code and because the complaint may reveal a violation of the law, we conclude that you may properly invoke the informer's privilege under section 3(a)(1) of the Open Records Act. The identity of the complainant need not be disclosed.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling, rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-515.

Yours very truly,

A handwritten signature in cursive script that reads "Faith Steinberg". The signature is written in black ink and is positioned above the typed name.

Faith Steinberg
Assistant Attorney General
Opinion Committee

FS/GK/lcd

Ref.: ID# 13616

cc: Mr. George Kirchman
Box 815
Junction, Texas 76849