



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. G. Chadwick Weaver
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR95-1518

Dear Mr. Weaver:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request ID# 19152.

The City of Midland (the "city") received an open records request for "the name and address of an individual who surrendered possession of a domestic cat owned by" the requestor's client. You explain that the city has enacted an ordinance that prohibits a person from allowing an animal he or she owns to be "at large." In this instance, an individual captured the cat in his own trap¹ and turned the cat over to the city's animal control center. You have submitted to this office for review an "information card" kept by the animal control center that contains the requested information. You contend that the name and address of the individual who trapped the cat are excepted from required public disclosure by the informer's privilege as incorporated into section 552.101 of the Government Code.

The informer's privilege protects the identity of persons who report possible violations of the law to the officials charged with enforcing that law. Open Records Decision No. 515 (1988) at 5. Although the privilege ordinarily applies to the efforts of law enforcement agencies, it can also apply to administrative officials with a duty to enforce particular laws. Attorney General Opinion MW-575 (1982) at 2. The informer's privilege does not, however, apply when identity of the informer is known to the person who would have cause to resent the communication. Open Records Decision No. 208 (1978) at 1.

¹Because this individual set the trap without the express authority of city officials, he was not acting as an agent for the city.

In this case, we conclude that the identity of the individual who trapped the cat is excepted from disclosure by the informer's privilege. By surrendering the cat to the appropriate authorities, this individual "reported" a violation of a city ordinance. You may, therefore, withhold the name and address of the individual who trapped the cat under section 552.101.² The remaining information on the "information card" must be released, however.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Todd Reese". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/LRD/rho

Ref.: ID# 19152

Enclosure: Submitted document

cc: Mr. C.H. Brockett, Jr.
Brockett & Lindemood
3101 North Pecos
Midland, Texas 79705
(w/o enclosure)

²We note that, unlike other aspects of section 552.101 of the Government Code, however, the informer's privilege is a discretionary exception that a governmental body may choose to assert or to waive. See Gov't Code § 552.007; Open Records Decision No. 549 (1990). Therefore, you may choose to release the "informer's" name and address.