



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 19, 1996

Ms. Tracy B. Calabrese  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR96-0980

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40545.

The City of Houston (the "city") received a request for a copy of the complaint file on property 6920 1/2 Cayton. You assert that some of the information within the file is excepted from required public disclosure by sections 552.101 and 552.107 of the Government Code. You have submitted a marked copy of the requested information for our review.

You first assert that information within the file which shows the complainant's identity is excepted from disclosure under section 552.101. You state that the complainant's identity is protected by the "informer's privilege." You have marked those portions of the materials that you believe are protected. Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing *Wigmore, Evidence*, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5.

In this instance, you explain that the complaint file at issue involves alleged violations of a city ordinance. Such violations are subject to civil penalties. We conclude that you must withhold the highlighted portions of the documents which identify the complainant. We do not, however, believe that you may withhold the letter dated February 5, 1996 in its entirety.

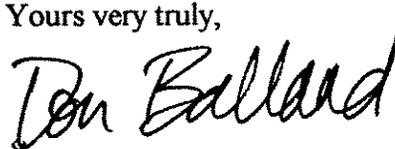
You also argue that portions of a letter dated March 20, 1996 to a city employee from an assistant city attorney is protected from disclosure by section 552.107. Section 552.107 excepts information if:

- (1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas . . . .

Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basic factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We find that the yellow highlighted portions of the letter are protected by section 552.107 and may be withheld. We do not, however, believe that the blue highlighted portion of the document is protected. It merely recites purely factual communications.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref.: ID# 40545

Enclosures: Submitted documents

cc: Ms. Rosa Maria Jaramillo  
6920 Cayton Street  
Houston, Texas 77061  
(w/o enclosures)