



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 2, 1996

Ms. Y. Qiyamah Taylor
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR96-2277

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102162.

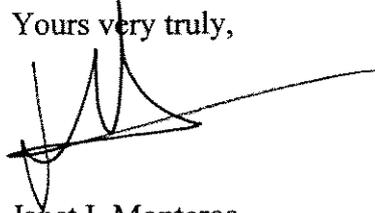
The City of Houston (the "city") received a request for a specific field report which details a citation for a violation of the City of Houston Code of Ordinance pertaining to rubbish and trash. We note that the city has already forwarded a redacted copy of the requested documents to the requestor but that it seeks to withhold the portions of the requested documents which reveal the identity of any complainant. The city bases its exception on section 552.101 of the Government Code and has submitted to this office the information it seeks to withhold.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Texas courts long have long recognized the informer's privilege, *see Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928), and it is a well-established exception under the Open Records Act. Open Records Decision Nos. 549 (1990) at 4, 515 (1988) at 2-5, 391 (1983). Although the "informer's privilege" aspect of section 552.101 ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 (1981) at 1, 279 (1981) at 1-2; *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. *See* Open Records Decision Nos. 515 (1988) at 3, 391 (1983) at 3. For information to come under the protection of the informer's privilege, the information must relate to a violation of a civil or criminal statute.

The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 (1990) at 5. Once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2. You have provided information which indicates that if a violation of the city code results, a failure to correct may result in the issuance of a municipal court citation. You may therefore withhold information that tends to identify any complainant under the informer's privilege.

We are resolving this matter with this 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 may 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,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', with a long horizontal flourish extending to the right.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/rho

Ref.: ID# 102162

Enclosures: Submitted documents

cc: Mr. Morris Hamm
Attorney at Law
13700 Veterans Memorial, Suite 460
Houston, Texas 77014
(w/o enclosures)