



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 19, 1997

Ms. Suzanne Schwartz
General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR97-0557

Dear Ms. Schwartz:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104397.

The Texas Water Development Board (the "board") received a request for certain information pertaining to a loan by the board. Apparently, the only responsive records at issue are five documents that you contend are protected from disclosure pursuant to section 552.107(1) of the Government Code. Section 552.107(1) excepts from disclosure communications that reveal client confidences or an attorney's legal opinion, advice, or recommendation to a client. Open Records Decision Nos. 589 (1991) at 1, 574 (1990) at 3, 462 (1987) at 9-11. We agree that the documents submitted to this office for review may be withheld from disclosure.

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,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 104397

Enclosures: Submitted documents

cc: Mr. Robert Renbarger
2000 San Jacinto Center
98 San Jacinto Boulevard
Austin, Texas 78701-4286
(w/o enclosures)



Office of the Attorney General
State of Texas

March 19, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. John Steiner
Division Chief
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR97-0558

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104439.

The Austin Police Department (the "department") received a request for the name of the person who reported a particular disturbing dog. You claim that the requested information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exception you claim and have reviewed the information at issue.

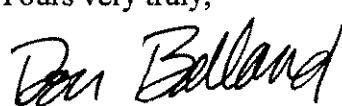
We first consider the arguments you make under the informer's privilege. Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body 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.

Assuming here that the reported activity is a violation of a criminal or civil statute, the requestor knows the identity of the one person whom you have identified as an informer. Consequently, the department may not withhold the identity of that person under the informer's privilege. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2.

You further seek to withhold the name under section 552.108 of the Government Code. Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). However, information normally found on the front page of an offense report is generally considered public, including the identity of the complainant. *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref’d n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you may not withhold the requested information under section 552.108.

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# 104439

Enclosures: Submitted documents

cc: Ms. Carrie Weikert
Moreland Properties
5450 Bee Cave Road Suite 4A
Austin, Texas 78746
(w/o enclosures)