



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 6, 1997

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

OR97-1311

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 106358.

The City of Houston (the "city") received a request that the city identify the complainant in a particular deed restriction dispute. You assert that the requested information, which appears on various city documents, is excepted from required public disclosure based on section 552.101 of the Government Code in conjunction with the informer's privilege.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Prior decisions of this office have stated that section 552.101 incorporates the informer's privilege. *See e.g.*, Open Records Decision No. 515 (1988). The informer's privilege protects the identity of a person who reports a violation or possible violation of the law to officials charged with the duty of enforcing the particular law. *See id.* (citing *Roviaro v. United States*, 353 U.S. 53 (1957)). The privilege also protects the identity of a person who reports a violation of a statute with civil penalties. *See id.* at 2. The privilege does not apply if the subject of the information already knows the informer's identity. *See* Open Records Decision No. 208 (1978) at 1-2.

You assert that the complainant here reported a violation of a city ordinance to the city, and that the city is authorized to enforce that ordinance. You inform us that section 10-553(a) of the Houston Code of Ordinances, as amended by City of Houston Ordinance

No. 94-1154, adopted October 26, 1994, authorizes the City Attorney to file a lawsuit to enforce a deed restriction. You further state that section 10-552(a) of the Houston Code of Ordinances provides that a landowner who is in violation of a deed restriction shall be subject to civil penalties.

We agree that the informer's privilege applies in this case. *See* Open Records Decision No. 279 (1981). Consequently, the city may withhold the information from the requestor based on section 552.101 of the Government Code.

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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 106358

Enclosures: Submitted documents

cc: Ms. Sophia A. Marfrige
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Houston, Texas 77002
(w/o enclosures)