



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 6, 1998

Ms. E. Cary Grace  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR98-1138

Dear Ms. Grace:

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# 115797.

The City of Houston (the "city") received a request for information regarding complaints about the requestor's business. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The informer's privilege is incorporated into section 552.101 of the Government Code, which excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. The 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.

The complainants here reported possible violations of city ordinances for which the city's Department of Health and Human Services is authorized to enforce. Therefore, the city may withhold from disclosure information that would tend to identify the informer. We assume, for purposes of this ruling that the person complained of does not know the identity of the informer. We agree that the information you have marked identifies the complainant, and therefore may be withheld under the informer's privilege as incorporated by section 552.101 of the Government Code.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/glg

Ref.: ID# 115797

Enclosures: Submitted documents

cc: Mr Pete Zinnante, Jr.  
Zinnante's Delicatessen  
9806 Hillcroft  
Houston, Texas 77096  
(w/o enclosures)