



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 17, 2009

Ms. Charlotte L. Staples
Taylor Olson Adkins Sralla Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2009-03466

Dear Ms. Staples:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 338211.

The City of North Richland Hills (the "city"), which you represent, received a request for information relating to a specified incident. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. The common-law informer's privilege, incorporated into the Act by section 552.101, has long been recognized by Texas courts. *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). This privilege 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 at 3 (1988), 208 at 1-2 (1978). It 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 at 2 (1981) (*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 at 2 (1990), 515 at 4-5. The privilege excepts an informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You assert that the complainant reported a violation of City Code section 14-395, a misdemeanor, to the city's 9-1-1 call center. You state a violation of section 14-395 carries a penalty of a fine not to exceed \$2,000.00. Based on your representations and our review of the submitted report, we conclude the city has demonstrated the applicability of the common-law informer's privilege to the complainant's identifying information. Therefore, the city may withhold the identifying information of the complainant, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with the common-law informer's privilege. We note the remaining information you have marked is not identifying of the complainant. Therefore, you may not withhold this information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/jb

Ref: ID# 338211

Enc. Submitted documents

cc: Requestor
(w/o enclosures)