



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2009

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street 3rd Floor
Fort Worth, Texas 76102

OR2009-05385

Dear Ms. Byles:

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# 345370.

The City of Fort Worth (the "city") received a request for the identities of the individuals who filed specified complaints against the requestor or his property. You state that most of the responsive information has been released to the requestor. You claim that some of the remaining requested information is excepted from disclosure under section 552.101 of the Government Code and privileged under Texas Rule of Evidence 508. We have considered your arguments and reviewed the information you submitted.

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. You raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects 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. *See Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978)*. 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." *See 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 (1988). The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. See Open Records Decision No. 549 at 5 (1990).

You state that the submitted information identifies a citizen who reported violations of the city code to city staff members charged with enforcement of the code. You also inform us that violations of the code are punishable by civil and criminal penalties. Based on your representations and our review of the submitted information, we have marked the information that identifies an informant. We conclude that the city may withhold that information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.¹ See Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). The remaining submitted information is not responsive to this request. This ruling does not address the public availability of nonresponsive information, and the city is not required to release nonresponsive information in response to this request.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

¹As we are able to make this determination, we need not address your claim under Texas Rule of Evidence 508.

Ref: ID# 345370

Enc. Submitted documents

c: Requestor
(w/o enclosures)