



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2010

Ms. Susan Camp-Lee
Sheets & Crossfield, P.C.
For City of Round Rock
309 East Main Street
Round Rock, Texas 78664-5246

OR2010-06462

Dear Ms. Camp-Lee:

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# 378396.

The City of Round Rock (the "city"), which you represent, received a request for any audio recordings and written reports related to a specified incident.¹ You claim that 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.

We note that the city has redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), (e)(1)(D). We note the city has redacted Texas license plate and driver's license numbers. Redaction of these types of information is now permitted pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 684

¹You state that the city sought and received a clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

(2009), which authorizes the withholding of ten categories of information, including a Texas driver's license number and license plate number under section 552.130 of the Government Code. However, you do not assert, nor does our review of our records indicate, that the city has been otherwise authorized to withhold the remaining Texas motor vehicle record information and driver's license information the city redacted without seeking a ruling from this office. *See id.* § 552.301(a). In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. However, in the future, the city must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301 of the Government Code. *See id.* §§ 552.301(e)(1)(D), .302. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.* § 552.302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by the common-law informer's privilege, which 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). The informer's 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 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). 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 at 2 (1981). 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. We also note that the privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You state that portions of the submitted information reveal the identity of a person reporting a possible violation of a city ordinance and state law to the city's police department. You also state that the violation at issue is punishable by a fine. Based on these representations, the city may withhold the complainant's identifying information you have highlighted in the submitted report under section 552.101 in conjunction with the common-law informer's privilege. Furthermore, the city may withhold this type of information from the submitted audio recording. In the event the city does not have the technological capacity to redact the complainant's identifying information from the submitted recording, the city may withhold the audio recording in its entirety.

We note some of the remaining information is excepted under section 552.130 of the Government Code.² Section 552.130 provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Accordingly, the city must withhold the Texas motor vehicle record information we have marked in the remaining information under section 552.130 of the Government Code.

In summary, the city may withhold the complainant's identifying information you have highlighted in the submitted report, as well as the complainant's identifying information in the submitted audio recording, under section 552.101 in conjunction with the common-law informer's privilege. In the event the city does not have the technological capacity to redact the complainant's identifying information from the submitted recording, the city may withhold the audio recording in its entirety. The city must withhold the information we have marked under section 552.130 of the Government Code. The remaining 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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

²The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos.481 (1987), 480 (1987), 470 (1987).

Ref: ID# 378396

Enc. Submitted documents

c: Requestor
(w/o enclosures)