



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2010

Ms. Martha T. Williams
Olson & Olson, L.L.P.
For City of Friendswood
2727 Allen Parkway, Suite 600
Houston, Texas 77019

OR2010-09410

Dear Ms. Williams:

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# 384064.

The City of Friendswood (the "city"), which you represent, received a request for all code violation complaints filed by a named individual from a specified address, or all code violation complaints filed from another specified address against the named individual.¹ We understand you have released some of the requested information to the requestor. You claim that the submitted 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.

Section 552.101 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 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*

¹We note the requestor clarified his request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

(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 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 reveals the identity of an individual who reported a possible violation of the city's Code of Ordinances to the city. You explain the city has the authority to enforce the violation at issue and state that such a violation is a Class C misdemeanor and punishable by fine. However, we note that in this instance, the request for information reveals that the requestor knows the identity of the complainant whose identity you seek to withhold. Although you state the requestor may be speculating as to the identity of the complainant, the requestor has listed both the complainant's name and home address in his request. Accordingly, we find you have failed to establish the informer's privilege is applicable to the information at issue, and the city may not withhold any of the submitted information under section 552.101 on that basis. As no further exceptions are raised, the submitted information must be released to the requestor.

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,



James McGuire
Assistant Attorney General
Open Records Division

JM/dls

Ref: ID# 384064

Enc. Submitted documents

c: Requestor
(w/o enclosures)