



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2010

Ms. Margo M. Kaiser
Staff Attorney - Open Records Unit
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2010-15221

Dear Ms. Kaiser:

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# 395979 (TWC Tracking No. 100719-073).

The Texas Workforce Commission (the "commission") received a request for all documents in the commission's file pertaining to the requestor's client. You state you are releasing some of the requested information to the requestor. You state you are withholding insurance policy numbers under section 552.136 of the Government Code and personal e-mail addresses under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim that portions of the submitted information are exempted 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 exempts 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

¹This office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an insurance policy number under section 552.136 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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 (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 have marked the information for which the commission claims the informer's privilege. Although you state the information you have marked identifies "individuals who have filed complaints with the Texas Department of Insurance regarding insurance coverage," you have not sufficiently demonstrated that a violation of a criminal or civil statute was reported to an official having a duty of inspection or of law enforcement. Further, you have not established that the commission has authority to enforce any statute with a criminal or civil penalty. Accordingly, we find you have failed to demonstrate the informer's privilege is applicable to the information at issue. Thus, the commission may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with the informer's privilege. As you raise no further exceptions to disclosure, the 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a long horizontal flourish extending to the right.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 395979

Enc. Submitted documents

c: Requestor
(w/o enclosures)