



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 12, 2010

Ms. Heather Shankle
Records and Information Specialist
City of Burleson
141 West Renfro
Burleson, Texas 76028-4261

OR2010-15525

Dear Ms. Shankle:

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# 396528 (City Ref. #324).

The City of Burleson (the "city") received a request for the name of the individual who made a specified complaint. You claim that the requested 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.

Initially, we note most of the submitted information is not responsive to the instant request for information. The requestor only asks for the name of a certain complainant. Accordingly, only the complainant's name is 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.

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. This section encompasses 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 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). 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 (1988). The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

You state the responsive information identifies an individual who made a complaint regarding a landscape violation to the city's director. However, you have not explained whether the alleged violation carries civil or criminal penalties. Accordingly, the city has failed to demonstrate that the informer's privilege is applicable to the submitted information. Thus, we conclude that the city may not withhold the complainant's name under section 552.101 of the Government Code in conjunction with the informer's privilege. As no further exceptions against disclosure are raised, the complainant's name 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/em

Ref: ID# 396528

Enc. Submitted documents

c: Requestor
(w/o enclosures)