



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 6, 2011

Mr. Joe Gorfida Jr.
Nichols, Jackson, Dillard, Hager & Smith, L.L.P
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2011-04769

Dear Mr. Gorfida:

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# 413799.

The City of Allen (the "city"), which you represent, received a request for all information concerning a city Code Compliance Division notice sticker left on the requestor's car on a specified date. You state most of the requested information has been released. You claim portions of the information contained in Exhibit C are 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 some of the information contained in Exhibit C, which we marked, is not responsive to the request because it does not concern the notice sticker left on the requestor's car. This decision does not address the public availability of the non-responsive information, and that information need not be released in response to the present 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 exception 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

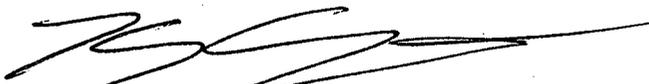
violations of statutes to the police or similar law enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 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 (1988).

You represent that the information you marked in Exhibit C reveals the name and telephone number of an individual who informed the city of an alleged violation of section 9-334 of the city's Code of Ordinances. You have provided documentation showing the city has the authority to enforce this section, and a violation is punishable by a fine. Based on your representations and our review, we conclude the city may withhold the informant's name and telephone number under section 552.101 in conjunction with the common-law informer's privilege. As you raise no other exception to disclosure, the remaining responsive 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eeg

Ref: ID# 413799

Enc. Submitted documents

c: Requestor
(w/o enclosures)