



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 26, 2011

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR2011-07457

Dear Ms. Grace:

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# 418866.

The City of Austin (the "city") received requests for all case notes regarding a specified case as of a specified date and a recording of a specified 3-1-1 call. You state the requested case notes have been released. You claim the submitted 3-1-1 recording 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 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 state the 3-1-1 recording identifies a citizen who reported a potential violation of section 25-2-492 of the Austin City Code (the "code") to the city's Code Compliance Department, which you explain has the authority to enforce this section of the code. You also state, and provide documentation showing, a violation of section 25-2-492 is a Class C misdemeanor punishable by a fine up to \$2,000. Based on your representations and our review, we conclude the city may withhold the 3-1-1 recording under section 552.101 in conjunction with the common-law informer's privilege.

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/eb

Ref: ID# 418866

Enc. Submitted documents

c: Requestor
(w/o enclosures)