



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2011

Mr. Tyler F. Wallach
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2011-10110

Dear Mr. Wallach:

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# 424490 (PIR# W008628).

The City of Fort Worth (the "city") received a request for water billing records for a specified address during a specified time period. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions 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.

You state the information you have marked reveals the identity of a complainant who reported a possible criminal violation to city staff members charged with the enforcement of the city's code of ordinances. You explain the alleged violation reported by this complainant is a misdemeanor punishable by fines. You state it does not appear the subject of the complaint knows the identity of the complainant. Based on your representation and our review, we agree the informer's privilege is applicable to the information you have marked. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). Therefore, the city may withhold the information you have marked under section 552.101 in conjunction with the informer's privilege.¹

Next, you seek to withhold the utility account numbers you have marked under section 552.136 of the Government Code. Section 552.136 provides "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). An access device number is one that may be used to "(1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument[.]" and includes an account number. *Id.* § 552.136(a). You state the marked location identification number is combined with a customer identification number to form a customer's utility account number. Accordingly, the city must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the city may withhold the information you have marked under section 552.101 in conjunction with the informer's privilege. The city must withhold the utility account numbers you have marked under section 552.136 of the Government Code. The city must release the remaining information.

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,

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 424490

Enc. Submitted documents

c: Requestor
(w/o enclosures)