



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 23, 2011

Mr. Benjamin Sampract
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2011-12159

Dear Mr. Sampract:

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# 427976 (PIR No. W009401).

The City of Fort Worth (the "city") received a request for information involving complaints about a named individual's dogs and specified addresses. You state some of the requested information either has been or will be released. You claim the rest of the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the information you submitted.²

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. 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 the subject of the information does not already know the informer's identity. *See Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2*

¹Although you raise section 552.101 in conjunction with Texas Rule of Evidence 508, this office has concluded section 552.101 does not encompass discovery privileges. *See Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990)*.

²You state motor vehicle record information has been redacted from responsive records pursuant to previous determinations issued to the city under section 552.130 of the Government Code. *See Open Records Decision No. 673 (2001)* (previous determinations). You also state social security numbers have been redacted pursuant to section 552.147 of the Government Code. *See Gov't Code § 552.147(b)* (governmental body may redact living person's social security number from public release without requesting decision under Act).

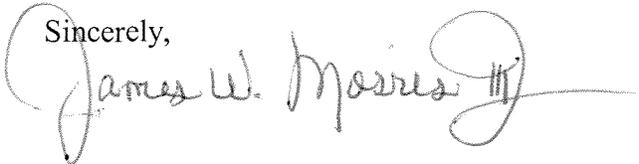
(1978). The privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to “administrative officials having a duty of inspection or of law enforcement within their particular spheres.” *See* Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, EVIDENCE IN TRIALS AT COMMON LAW, § 2374, at 767 (J. 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 (1988). 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 information the city seeks to withhold under the common-law informer’s privilege. You explain the marked information identifies an individual who reported a possible violation of section 6-13(d) of the city code to city employees charged with enforcing the code. You state the city has received no indication the alleged code violator is aware of the informer’s identity. You also state, and have provided documentation reflecting, a violation of section 6-13(d) is punishable by a fine. Based on your representations and documentation, we conclude the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. *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). The city must release the rest of the submitted information unless it has already done so.

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 cursive script that reads "James W. Morris III". The signature is written in dark ink and includes a long horizontal flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 427976

Enc: Submitted documents

c: Requestor
(w/o enclosures)