



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 4, 2011

Ms. Karen Stead
Assistant City Attorney
City of Tyler
P.O. Box 2039
Tyler, Texas 75710

OR2011-14331

Dear Ms. Stead:

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# 436472 (Legal Desk #TPX-414361).

The City of Tyler (the "city") received a request for information relating to a complaint. You claim some 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.

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 (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

¹We note you also claim Texas Rule of Evidence 508, which is other law that makes information confidential for purposes of section 552.022 of the Government Code. *See* Gov't Code § 552.022; *In re City of Georgetown*, 53 S.W.3d 328 (Tex. 2001). As section 552.022 is not applicable in this instance, this decision does not address rule 508.

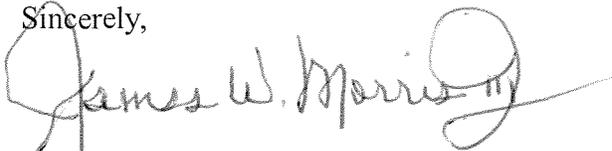
statutes with civil or criminal penalties to “administrative officials having a duty of inspection or of law enforcement within their particular spheres.” *See* Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, EVIDENCE IN TRIALS AT COMMON LAW, § 2374, at 767 (J. McNaughton rev. ed. 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 state the submitted information identifies an informant who reported alleged violations of the city code to the city’s code enforcement department (the “department”). You indicate the department is authorized to enforce the city code and issue municipal court citations for violations. You state code violations are punishable by criminal penalties. Based on your representations and our review of the information at issue, we conclude the city may withhold the informer’s name and telephone number under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The city must release the rest of the submitted 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, 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,



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

JWM/em

Ref: ID# 436472

Enc: Submitted documents

c: Requestor
(w/o enclosures)