



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2011

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2011-15034

Dear Mr. Griffith:

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# 433186.

The City of McKinney (the "city"), which you represent, received a request for all records of noise complaints, including any notes from responding officers, pertaining to a specified address for a specified time period. You claim the submitted information 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.

You inform us the submitted information identifies complainants who reported possible violations of section 70-120 of the city's code of ordinances to the city's police department. You explain the police department has the authority to enforce this law under the city's code of ordinances. You state violations of section 70-120 may be punished by a criminal penalty under the provisions of section 70-124. You do not inform us that the subject of the complaints knows the identity of the complainants. Based on your representations and our review, we conclude the information we have marked identifies complainants who reported possible violations of section 70-120. Thus, the city may withhold this information under section 552.101 in conjunction with the common-law informer's privilege. However, we note one of the submitted reports reveals that the subject of that complaint knows the identity of the complainant in that instance. Accordingly, this complainant's identifying information is not protected under the common-law informer's privilege.

We note the remaining information contains license plate and driver's license information that is subject to section 552.130 of the Government Code.¹ This section provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1), (2)). Therefore, the city must withhold the information we have marked under section 552.130.

In summary, the city may withhold the information we marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must withhold the information we marked under section 552.130 of the Government Code. The remaining 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 black ink, appearing to read 'KLC', with a long horizontal flourish extending to the right.

Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 433186

Enc. Submitted documents

c: Requestor
(w/o enclosures)