



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 20, 2011

Mr. Warren M. S. Ernst  
Chief of the General Counsel Division  
City of Dallas  
1500 Marilla Street, Room 7BN  
Dallas, Texas 75201

OR2011-15355

Dear Mr. Ernst:

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# 434157.

The City of Dallas (the "city") received a request for any records pertaining to complaints lodged with Dallas Animal Services against the requestor's client made by two named individuals. You claim the marked portions of Exhibit B are excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>Although 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).

<sup>2</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

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 assert the marked portions of Exhibit B identify complainants who reported alleged violations of sections 7-4.6, 7-3.2, and 7-4.8 of the Dallas City Code. You state the alleged violations were reported to the city’s 3-1-1 system. You also state the 3-1-1 system is authorized to refer reports of violations of the Dallas City Code to the city’s Code Compliance Department. You explain the city’s Code Compliance Department has the authority to enforce these laws. You state violations of these sections are Class C misdemeanors punishable by a fine not to exceed \$2,000. Furthermore, you represent the requestor’s client accused of the alleged violations does not know the identity of the complainants. Although the requestor names two individuals in the request, you state the requestor has not proved that he knows the informers’ identities. You state “[t]he requestor has merely provided us with a list of names. The request is consistent with the fact that the requestor is speculating that complaints have been made by the named persons. Even if the requestor is correct and that one or both of the named individuals are informants, he certainly does not know which complaint was filed by which informant.” Based on your representations and our review, we conclude the city may withhold the marked complainant identifying information in Exhibit B under section 552.101 of the Government Code 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](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 black ink that reads "Sean Opperman". The signature is written in a cursive style with a long horizontal flourish at the end.

Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/dls

Ref: ID# 434157

Enc. Submitted documents

c: Requestor  
(w/o enclosures)