



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2012

Ms. Elizabeth L. White
For City of Friendswood
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056

OR2012-06809

Dear Ms. White:

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# 452994 (Friendswood # W001314-022212).

The City of Friendswood (the "city"), which you represent, received a request for the identity of the person that reported a specific violation of a city ordinance. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor seeks only the identity of the person who reported a specific violation to the city. Thus, only the information you highlighted is responsive to the instant request. This ruling does not address the public availability of the remaining information that is not responsive to this request, and the city is not required to release this non-responsive information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *E.g.*, *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. *See* Open Records Decision No. 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 1-2 (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 (1988). The privilege excepts the informer’s statement only to the extent necessary to protect that informer’s identity. Open Records Decision No. 549 at 5 (1990). You state the information at issue is related to a complaint by an individual of possible violations of city ordinances under chapter 26 of the city code, related to public nuisance and junked vehicles. You further state the city has the authority, through its Code Enforcement Department, to enforce these ordinances. You explain a violation these ordinances may result in a misdemeanor charge with a fine of up to \$200.00, and abatement and removal of the nuisance may be ordered. We understand the subject of the information does not know the identity of the complainant. Accordingly, upon review, we conclude the city may withhold the information you have highlighted under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.¹

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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

¹As our ruling is dispositive, we do not address your remaining arguments against its disclosure.

Ref: ID# 452994

Enc. Submitted documents

c: Requestor
(w/o enclosures)