



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2012

Ms. Jessica D. Richard
Assistant City Attorney
City of New Braunfels
P.O. Box 311747
New Braunfels, Texas 78131-1747

OR2012-08864

Dear Ms. Richard:

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# 455901 (ORR No. 2012-150).

The City of New Braunfels (the "city") received a request for a specified case number, including the name of the person making the complaint. You state you are providing some of the requested information to the requestor. You claim that 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the 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. *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 submitted information reveals the identity of an individual reporting an alleged tall grass violation, which you state is a Class C Misdemeanor ordinance violation. You explain the complaint was made to the city’s Code Enforcement Division, which has authority to enforce the ordinance and investigate alleged violations. You state violation of the ordinance may result in fines or criminal penalties. It does not appear the subject of the complaint knows the identity of the informer. Based on your representations and our review of the submitted information, we conclude the city may withhold the informer’s identifying information we have marked under section 552.101 in conjunction with the informer’s privilege. However, you have not demonstrated how the remaining information reveals the identifying information of an informer reporting a violation of statute. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code on the basis of the informer’s privilege. As you raise no further exceptions to disclosure, 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 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 455901

Enc. Submitted documents

c: Requestor
(w/o enclosures)