



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 3, 2012

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

OR2012-10228

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# 458037.

The City of Dallas (the "city") received a request for the name, address, and telephone number of any complainants making complaints about the requestor's address since February 15, 2012, including information regarding two specified complaints. You claim portions of the submitted information 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 information.

Initially, we note you have only submitted one responsive complaint. Thus, to the extent any additional responsive information existed at the time the city received the present request, we assume it has been released. If such information has not been released, then it must be released at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

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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).*

Next, we note the requestor seeks only the name, address, and telephone number of any complainants. Accordingly, the remaining submitted information is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (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.

You state the responsive information reveals the identity of a complainant who reported a possible violation of section 51P-87.111(a)(9) of the city’s Development Code using the city’s 3-1-1 system. You inform us the 3-1-1 system routes the reports of alleged violations to the proper law enforcement entities, including the city’s police and code enforcement departments. You explain a violation of section 51P-87.111(a)(9) of the Development Code is a misdemeanor punishable by a fine. There is no indication the subject of the complaint knows the identity of the complainant. Based on your representation and our review, we conclude the city may withhold the responsive information 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, appearing to read "Kristi L. Wilkins". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/ag

Ref: ID# 458037

Enc. Submitted documents

c: Requestor  
(w/o enclosures)