



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2012

Ms. Danielle R. Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-12773

Dear Ms. Folsom:

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# 466272 (GC No. 19846).

The City of Houston (the "city") received a request for the identity of the person who filed complaints about two specified addresses. You claim the submitted information is excepted from disclosure under sections 552.101 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note a portion of the information you have submitted is not responsive to the instant request, which seeks only the identity of the complainant. This ruling does not address the public availability of the non-responsive information, nor is the city required to release non-responsive information in response to this request.

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 responsive information reveals the identity of an individual reporting alleged violations of the city’s ordinances related to deed restrictions. You explain the city’s Legal Department has authority to enforce these ordinances and investigate alleged violations. You state violation of these ordinances may result in civil penalties. Based on your representations and our review of the submitted information, we conclude the city may withhold the responsive information under section 552.101 of the Government Code in conjunction with the 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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 466272

Enc. Submitted documents

c: Requestor
(w/o enclosures)