



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 20, 2012

Ms. Cathy Bourg  
Deputy City Secretary  
City of Burleson  
141 West Renfro  
Burleson, Texas 76028-4261

OR2012-14994

Dear Ms. Bourg:

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# 465712.

The City of Burleson (the "city") received a request for information pertaining to three specified violations. You indicate the city does not have any information regarding two of the specified violations.<sup>1</sup> 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects 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

---

<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d (Tex. Civ. App.—San Antonio 1978, writ dism'd).

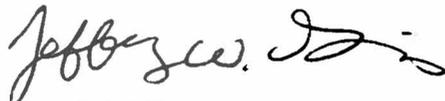
already know the informer's identity. *See* Open Records Decision Nos. 515 at 3 (1998), 208 at 1-2 (1978). The privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." *See* Open Records Decision No. 279 at 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 4-5 (1988). The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You state the submitted information identifies an informant who reported a possible violation of section 34-31(7) of the city's code of ordinances to the city's code enforcement department, whose responsibilities include enforcement of the code. You inform us a violation of the code is a misdemeanor offense punishable by a fine. You state the subject of the information does not know the identity of the informer. Based on your representations, we conclude the city may withhold the identifying information of the informer, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must release the rest of the submitted information.

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,



Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/tch

Ref: ID# 465712

Enc. Submitted documents

c: Requestor  
(w/o enclosures)