ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 12, 2013

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2013-11901

Dear Ms. Quinn:

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# 496224 (Cedar Park Reference No. 13-664).

The City of Cedar Park (the "city") received a request for two specified reports. You claim some of 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. This section encompasses 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 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 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).

You state portions of the submitted information, which you have marked, identify an individual who reported possible violations of article 2.04.001 of the city's Code of Ordinances, pertaining to at large animals, to the city's Animal Control Department ("the department"). You state the alleged violation is within the scope of the department's enforcement authority. You also state a violation of the ordinance is a misdemeanor offense. You do not indicate, nor does it appear, the subjects of the complaints know the identities of the complainants. Therefore, we conclude the city may withhold most of the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). However, some of the information you have marked does not identify the complainants. Thus, with the exception of the information we have marked for release, the city may withhold the information it marked for under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. As you raise no exceptions to disclosure of the remaining information, it must be released.[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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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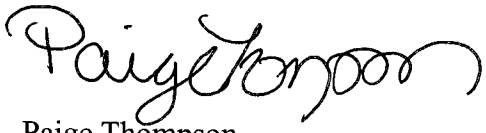
[1]We note the driver's license number being released is generally confidential pursuant to section 552.130 of the Government Code. However, because section 552.130 protects personal privacy, the requestor has a right to her own driver's license number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting a decision under the Act. *See* Gov't Code § 552.130(c). *But see id.* § 552.130(d)-)(e). Thus, if the city receives another request for this same information from a different requestor, subsection 552.130(c) of the Government Code authorizes the city to withhold the driver's license number without the necessity of requesting an attorney general decision.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 496224

Enc. Submitted documents

c: Requestor
(w/o enclosures)