



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 24, 2014

Ms. Brandi M. Youngkin
Assistant City Attorney
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2014-10794

Dear Ms. Youngkin:

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# 532220 (Plano Ref. No. agopin21-2014).

The City of Plano (the "city") received a request for the person who made a specified complaint to the city. 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.

Initially, we note the requestor only seeks the identity of the person who made the specified complaint. We note the submitted records contain information beyond the requested information. Accordingly, the submitted information that does not identify the complainant 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 such 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. 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 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). However, individuals who provide information in the course of an investigation but do not make the initial report of the violation are not informants for the purposes of claiming the informer’s privilege. 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 identifies a complainant who reported possible violations of the city’s code to the city’s Property Standards Department (the “department”). You explain the department has the authority to enforce the violations at issue. You also explain the code imposes criminal penalties for the violations at issue. You do not indicate, nor does it appear, the subject of the complaint knows the identities of the complainant. Based upon your representations and our review, we conclude the city may withhold the identifying information of the complainant, which you have marked, under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. The remaining information is not responsive to the request and the city need not release it.

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

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 532220

Enc. Submitted documents

c: Requestor
(w/o enclosures)