



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 9, 2014

Ms. Jennifer Knox-Walker
Assistant City Attorney
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2014-11749

Dear Ms. Knox-Walker:

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# 528406.

The City of Plano (the "city") received a request for complaints pertaining to a specified address from January 2013 to April 2014, including those made by a named individual.¹ 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. Section 552.101 of the Government Code 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.*

¹You state the city received clarification from the requestor as to the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S. W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

State, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The 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 (J. McNaughton rev. ed. 1961)). 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). We note the informer's privilege does not apply if the subject of the complaint knows the informer's identity. See Open Records Decision No. 208 at 1-2 (1978).

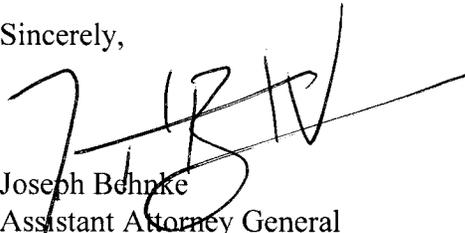
You state the submitted information identifies complainants who reported possible violations of the city's code, which is enforced by the city's Property Standards Department (the "department"). You explain the department has the authority to enforce the code violations at issue. You also explain the code imposes a criminal penalty for the violations at issue. Based upon your representations and our review, we conclude that, except for the information we have marked for release, the city may withhold the identifying information of the complainants you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, the request reflects the requestor knows the identity of the remaining complainant whose information we have marked for release. Furthermore, the city has failed to demonstrate the additional information we have marked for release contains the identifying information of complainants who reported possible violations of the city's code. As such, no portion of the remaining information you have highlighted, which we have marked for release, may be withheld under section 552.101 in conjunction with the common-law informer's privilege. As there are no remaining arguments against disclosure, the city must release the remaining information.²

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.

²We note the information being released includes the requestor's driver's license information to which the requestor has a right of access. See Gov't Code § 552.023(a); 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 allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e). Accordingly, if the city receives another request for the same information from a person who does not have such a right of access, section 552.130(c) authorizes the city to redact the requestor's driver's license information without the necessity of requesting a decision under the Act.

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,

A handwritten signature in black ink, appearing to read 'JBW', is written over a horizontal line. The signature is stylized and somewhat cursive.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 528406

Enc. Submitted documents

c: Requestor
(w/o enclosures)