



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2014

Mr. David T. Ritter  
Counsel for the Town of Little Elm  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2014-11872

Dear Mr. Ritter:

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# 528590.

The Little Elm Police Department (the "department"), which you represent, received a request for a specified report related to an automobile accident. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). 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 report does not already know their identities. Open Records Decision Nos. 515 at 2-3 (1988), 434 at 1-2 (1986), 208 at 1-2 (1978). For the informer's privilege to apply, the report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at (1990), 515 at 3-4. The privilege affords protection to individuals who report violations of statutes to criminal 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)).

You state the submitted information includes the identity of the person who has provided the department with information regarding an alleged violation of law. Upon review, there is no indication the subject of the investigation knows the identity of the individual. Based on these representations, we find the department may withhold the informer’s identifying information we marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, we find you have failed to demonstrate any of the remaining information at issue consists of identifying information of an informer for purposes of the informer’s privilege. Therefore, the department may not withhold any of the remaining information at issue under section 552.101 of the Government Code on this basis.

Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(2). Upon review, we find the information you marked, and the information we marked, is subject to section 552.130. We note section 552.130 protects privacy. The requestor in this instance may be the authorized representative of the individual whose motor vehicle record information is at issue and, therefore, may have a right of access to the information that would otherwise be confidential under section 552.130. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond the right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987). As such, we rule conditionally. To the extent the requestor is the authorized representative of the individual whose motor vehicle record information is at issue, the department may not withhold the marked information under section 552.130 of the Government Code. If the requestor is not the authorized representative of the individual whose motor vehicle record information is at issue, the department must withhold the information you marked, as well as the information we marked, under section 552.130 of the Government Code.

In summary, the department may withhold the informer’s identifying information we marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. If the requestor is not the authorized representative of the individual whose motor vehicle record information is at issue, the department must withhold the information you marked, as well as the information we marked, under section 552.130 of the Government Code. The remaining information must be released.

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](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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/dls

Ref: ID# 528590

Enc. Submitted documents

c: Requestor  
(w/o enclosures)