



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1993

Ms. Laura S. Portwood
Senior Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR93-582

Dear Ms. Portwood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 21699.

The City of Houston (the "city") received an open records request for "health, safety, occupancy, or other compliance inspection reports." You state that you have released the requested records, but that you have redacted information tending to identify the individuals who reported the alleged violations to the city. You seek to withhold this information pursuant to the informer's privilege as incorporated into section 552.101 of the Government Code (formerly section 3(a)(1), V.T.C.S. article 6252-17a).

In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of violations of law to officers charged with enforcement of that law. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their

¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act now is codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

knowledge of the commission of crimes to law-enforcement officials and, by preserving their anonymity, encourages them to perform that obligation.

Although the privilege ordinarily applies to the efforts of law enforcement agencies, it may apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 at 1, 279 at 1-2 (1981); *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. *See* Open Records Decision Nos. 515 (1988) at 3; 391 (1983) at 3.

You have submitted to this office for review a single "Complaint Investigation" form as representative of the other records that contain "informer" information. This form reveals a citizen's complaint of "[s]ewage-like odor, maggots present" at a particular location in the city. You have not demonstrated, however, that this or other complaints the city has received constitute reports of a possible violation of any specific state law or city ordinance carrying a criminal or quasi-criminal penalty. Because we find that you have not met your burden in establishing the applicability of the informer's privilege, the city must release the requested information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/rho

Ref.: ID# 21699

cc: Mr. Wayne Dolcefino
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