



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 31, 1994

Mr. Charles R. Anderson  
Deputy City Attorney  
City of Irving  
P.O. Box 152288  
Irving, Texas 75015-2288

OR94-141

Dear Mr. Anderson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552 (formerly V.T.C.S. article 6252-17a).<sup>1</sup> Your request was assigned ID# 17921.

The City of Irving (the "city") has received a request for information relating to two properties. Specifically, the requestor seeks information relating to building code, zoning, and fire code violations, and environmental hazards for properties located at 402 N. Nursery Road and 405 Maltby Road. You advise us that you have released most of the requested information. You object, however, to release of some of the information on forms of the city's Neighborhood Integrity Department. You claim that this information is excepted from required public disclosure by section 552.101 of the act in conjunction with the informer's privilege.

Section 552.101 of the act excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The informer's privilege applies when a person reports violations of the law to officials having a duty to enforce the law. Open Records Decision No. 515 (1988) at 2. The informer's privilege serves to encourage the flow of information to the government by protecting the identity of the informer. *Id.* If the contents of the informer's statement would tend to reveal the identity of the informer, the privilege protects the statement itself to the extent necessary to preserve the informer's anonymity. *Id.* The basis for the informer's privilege is to protect informers from the fear of retaliation and thus encourage

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<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now 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.

them to cooperate with law enforcement efforts. *Id.* The informer's privilege under section 552.101 is applicable not only to law enforcement agencies, but also to "administrative officials having a duty of inspection or of law enforcement within their particular spheres". Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961) and cases cited therein); *see also* Attorney General Opinion MW-575 (1982) at 2. This office has protected the following information under the informer's privilege: the identity of a person who reports a zoning violation, Open Records Decision No. 279; the identities of complainants to a city regarding lead pollution, Open Records Decision No. 296 (1981); and information tending to identify complainants regarding the violation of a city air pollution ordinance, Open Records Decision No. 355 (1982).

We have examined the documents submitted to us for review. They relate, *inter alia*, to complaints for zoning and fire code violations. You advise us that all of the complaints allege violations of the law, potentially subject to \$500 fines. We assume that the complaints were voluntarily submitted absent any solicitation and that the names of the informers and the nature of the complaints are not known to anyone who might have reason to resent the informers' communications. Accordingly, the names, addresses, and telephone numbers of the informers and any information that would tend to identify them may be withheld under section 552.101 of the act.

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,



Rick Gilpin  
Assistant Attorney General  
Open Government Section

RG/GCK/rho

Ref.: ID# 17921  
ID# 17937

Enclosures: Submitted documents

cc: Mr. Johnnie C. Robertson  
American Appraisal Association  
911 Bert Drive  
Arlington, Texas 76012  
(w/o enclosures)