



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 11, 1997

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR97-0773

Dear Ms. Nguyen:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 105199.

The City of Houston (the "city") received a request for the name of the person who filed a complaint against the requestor regarding an alleged violation of a deed restriction. You contend that the identifying information concerning the complainant is excepted from required public disclosure under the informer's privilege as incorporated by section 552.101 of the Government Code. The city has submitted the information in question and marked the portions of the record you contend are excepted from disclosure. We have considered the exception you claim and reviewed the submitted information.

You claim that the submitted marked information responsive to the request is excepted from disclosure under the informer's privilege. Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. 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 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5.

Although the "informer's privilege" aspect of section 552.101 ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 (1981) at 1, 279 (1981) at 1-2; 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. In this instance, you contend that "[u]nder the City of Houston Code of Ordinances, Article XV, section 10-522(a), 4) . . . [and] Texas Local Government Code, a person who fails to comply with recorded deed restrictions is subject to civil penalties of up to one thousand dollars (\$1,000) per day. Furthermore, "Chapter 230 of the Local Government Code authorizes the city to enforce recorded deed restrictions affecting the use of real property."

We have reviewed the highlighted information which the city claims is excepted under the informer's privilege and conclude that it does identify informers who reported a potential violation of a criminal or civil statute. Therefore, the city may withhold from disclosure the highlighted information for which it has asserted the informer's privilege. We assume for purposes of this ruling that the subject of the complaint does not know the informer's identity. See Open Records Decision Nos. 515 (1988), 208 (1978).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad

Assistant Attorney General  
Open Records Division

SH/rho

Ref.: ID# 105199

Enclosures: Submitted documents

cc: Mr. Jeffrey Bacino  
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(w/o enclosures)

