



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 21, 1997

Mr. John A. Riley
Director, Litigation Support Division
Texas Natural Resource Conservation
Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR97-2555

Dear Mr. Riley:

You ask this office to reconsider our decision in Open Records Letter No. 97-2046 (1997). Your request for reconsideration was assigned ID# 111015.

The Texas Natural Resource Conservation Commission (the "commission") received a request for "the name of the person who made the complain[n]t" against the requestor. In Open Records Letter No. 97-2046 (1997), this office concluded that the commission could not withhold the identity of the complainant under the informer's privilege aspect of section 552.101 of the Government Code.

We have examined your request for reconsideration. You have provided us with additional arguments in an attempt to demonstrate the applicability of the informer's privilege to the requested information. A governmental body must explain the reasons why the stated exceptions apply within fifteen days of receiving the request. *See* Gov't Code § 552.301(a), (b)(1). The informer's privilege is actually a governmental entity's privilege to withhold from disclosure the identities of those persons who report violations of law. *See Roviario v. United States*, 353 U.S. 53, 59 (1957). Thus, the informer's privilege is waivable by a governmental body, and the commission has waived the privilege by failing to timely explain the reason why the privilege may have applied in this instance. Open Records Decision No. 549 (1990).

You also contend that the complainant's name is protected under common-law privacy as articulated in Open Records Decision No. 169 (1977). In that decision, the attorney general concluded that special circumstances sometimes warrant withholding

a person's name and address from required public disclosure. We have reviewed your arguments for withholding the complainant's identity on that basis and conclude that you have not shown special circumstances in this instance. Therefore, we affirm Open Records Letter No. 97-2046 (1997).

If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref: ID# 111015

Enclosures: Submitted documents

cc: Mr. Raymond J. Reeves
Route 1, Box 153
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(w/o enclosures)