



February 4, 1999

Mr. Rusty Renfroe
City Attorney's Office
City of Longview
P. O. Box 1952
Longview, Texas 75606-1952

OR99-0331

Dear Mr. Renfroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 121741.

The City of Longview (the "city") received an open records request for the "complainant's information" concerning an investigation of the requestor's business. In response to the request, you submit to this office for review a copy of the responsive information. You claim that the requested information, which identifies the complainant, is excepted from disclosure under section 552.101 in conjunction with the informer's privilege. We have considered the exception you claim and have reviewed the information at issue.

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 at 3 (1988), 208 at 1-2 (1978). 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 at 2 (1981) (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 at 2 (1990), 515 at 4-5 (1988).

You explain that the report at issue “was based on a complaint regarding a pet store selling opossums [sic] and having dead animals in cages.” You assert that an Animal Control Officer from the city’s Environmental Health Department responded to the complaint. You further assert that the officer “is charged with enforcing violations of City ordinances and state law regarding the care and treatment of animals inside the City limits.” After reviewing the submitted information, we conclude that the informer’s privilege is applicable in this instance. Therefore, you may withhold the marked information that reveals the complainant’s identity under section 552.101 in conjunction with the informer’s privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city’s animal control division is excepted from disclosure by informer’s privilege so long as information furnished discloses potential violation of state law).

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 121741

Enclosures: Submitted documents

cc: Ms. Laura Borens
Wet Pets N Critters
103 W. Loop 281
Longview, Texas 75605
(w/o enclosures)