



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 20, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street 3rd Floor
Fort Worth, Texas 76102

OR2009-00773

Dear Mr. Phillips:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 336728 (PIR No. 1088-09).

The City of Fort Worth (the "city") received a request for information relating to code citations involving a specified address and time interval. You inform us that some of the requested information will be withheld from the requestor pursuant to the previous determination issued to the city in Open Records Letter No. 2001-6029 (2001). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 2001 (previous determinations). You claim that some of the remaining requested information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code and privileged under Texas Rule of Evidence 508. We have considered your arguments and reviewed the information you submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects 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. *See* Open Records Decision Nos. 515 at 3 (1998), 208

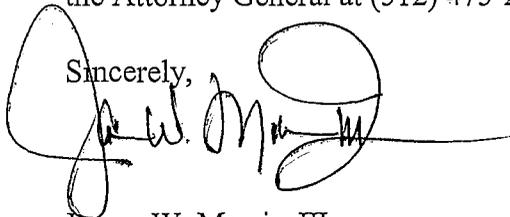
at 1-2 (1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." *See* 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). The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You have marked the information that the city seeks to withhold under the informer's privilege. You state that the marked information identifies an individual who reported possible violations of the city code to city staff members charged with enforcement of the code. You inform us that a violation of the code is punishable by a fine. Based on your representations, we conclude that the city may withhold the marked information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.¹ The rest of the submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

¹As we are able to make this determination, we need not address your other arguments against disclosure.

Ref: ID# 336728

Enc: Submitted documents

c: Requestor
(w/o enclosures)