



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 2, 2009

Mr. Ramiro Gonzales
Public Information Coordinator
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2009-07488

Dear Mr. Gonzales:

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# 344731 (COSA File No. 09-0346).

The City of San Antonio (the "city") received a request for the names, addresses, and phone numbers of individuals making complaints pertaining to the requestor's address. You claim that some the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note most of the submitted information is not responsive to the instant request for information. The requestor asks for the names, addresses, and phone numbers of complainants associated with the requestor's address. Accordingly, only the complainants' names, addresses, and phone numbers are responsive to this request. This ruling does not address the public availability of nonresponsive information, and the city is not required to release nonresponsive information in response to this request.

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. The informer's privilege, incorporated into the Act by section 552.101, has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). 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.

You inform us that the submitted information contains the identifying information of individuals who have made complaints to the city about violations of city code pertaining to dangerous premises. You state that the complaints were made to the city staff members charged with the enforcement of city code and was investigated by the city's Code Compliance Department, which is responsible for enforcing the city code. Further, you state the code violation at issue is a Class C misdemeanor punishable by a fine. Based on your representations and our review, we conclude that, with the exception of the information we have marked for release, the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining information the city has marked does not consist of the identifying information of an informer; therefore, the city may not withhold the remaining information it has marked under section 552.101 in conjunction with the informer's privilege. As you raise no further arguments against disclosure, the remaining responsive information must be released to the requestor.

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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 344731

Enc. Submitted documents

cc: Requestor
(w/o enclosures)
