



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 17, 2009

Ms. Beth Moroney
Paralegal, Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2009-11474

Dear Ms. Moroney:

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# 352482 (COSA File # 09-0684).

The City of San Antonio (the "city") received a request for information pertaining to specified code compliance complaints. You state the city will release most of the requested information. You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. This section encompasses the common-law informer's privilege, which 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). The informer's privilege 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). 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. The privilege excepts the informer's statement only to the extent necessary to protect that informer's identity. Open Records Decision No. 549 at 5 (1990).

You state that the information you have marked in the submitted information reveals the identities of individuals who reported to the city's Housing and Neighborhood Services Department (the "department"), Code Compliance Division alleged violations of sections 303 and 304 of the Neighborhood Housing Enforcement Code and section 35-525(a)1 of the Minimum Housing: Tenant Occupied and Unified Development Code. However, you do not state, and our review of the submitted information does not indicate, whether there is any civil or criminal penalty for violating these city ordinances. Accordingly, the city has failed to demonstrate that the informer's privilege applies to the submitted information. Therefore, the city may not withhold any of the submitted information under section 552.101 in conjunction with the informer's privilege.

Next, you contend that a portion of the submitted information is excepted under section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(2). Accordingly, the city must withhold the Texas license plate information we have marked in the submitted information under section 552.130 of the Government Code. As you raise no further exceptions, the remaining 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 352482

Enc. Submitted documents

c: Requestor
(w/o enclosures)
