



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 9, 2009

Ms. Myrna S. Reingold  
Galveston County Legal Department  
722 Moody, 5<sup>th</sup> Floor  
Galveston, Texas 77550-2317

OR2009-12672

Dear Ms. Reingold:

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# 354660.

The Galveston County Health District (the "health district") received a request for records regarding a complaint at a specific address. You state you have released some information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.137 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." This section encompasses the informer's privilege, which has long been recognized by Texas courts. *See, e.g., 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). This 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 Nos. 582 at 2 (1990), 515 at 4-5 (1988), 279 at 2 (1981).

You state the submitted information is related to complaints of alleged violations of section 101.4 of title 30 of the Texas Administrative Code and Chapter 382 of the Texas Health and Safety Code, also known as the Texas Clean Air Act. You further state that the health district is a local governmental entity organized under chapter 121 of the Texas Health and Safety Code. *See* Health & Safety Code §§ 121.041-.047. You explain that the health district “has entered into a cooperative agreement with the Texas Commission on Environmental Quality and has enforcement authority of the Texas Clean Air Act within its sphere.” *See id.* § 382.115. You indicate that there are administrative and civil penalties for a violation of the Texas Clean Air Act. *See* Water Code §§ 7.051, .102. Based on your representations and our review of the submitted information, we conclude that the health district may withhold the complainants’ identifying information, which you have marked, under section 552.101 of the Government Code in conjunction with the informer’s privilege.

You seek to withhold some of the remaining information under section 552.130 of the Government Code, which excepts from disclosure “information [that] relates to: (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state; (2) a motor vehicle title or registration issued by an agency of this state; or (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.” Gov’t Code § 552.130(a). Upon review, we agree the health district must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code.

Section 552.137 of the Government Code states that “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its public disclosure. *Id.* § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See* Act of June 2, 2003, 78th Leg., R.S., ch. 1089, § 1, 2003 Tex. Gen. Laws 3124, amended by Act of May 27, 2009, 81st Leg., R.S., ch. 962, § 7, found at <http://www.legis.state.tx.us/tlodocs/81R/billtext/html/HB03544F.htm>. We note, however, that section 552.137 does not apply to the work e-mail addresses of officers or employees of a governmental body, a website address, or the general e-mail address of a business. We agree that one of the e-mail addresses you have marked in the remaining information is not specifically excluded by section 552.137(c). You inform this office that the owner of the e-mail address at issue has not consented to its public disclosure. We have marked the e-mail address that the health district must withhold under section 552.137 of the Government Code. The remaining e-mail address that you seek to withhold, however, is the general e-mail address of a business and it may not be withheld under section 552.137.

In summary, the health district may withhold the complainants’ identifying information, which you have marked, under section 552.101 of the Government Code in conjunction with the informer’s privilege. The health district must withhold the information you have marked under section 552.130 of the Government Code and the e-mail address that we have marked

under section 552.136 of the Government Code. The remaining submitted 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](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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 354660

Enc. Submitted documents

c: Requestor  
(w/o enclosures)