



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 2, 2009

Ms. Janis K. Hampton
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2009-15491

Dear Ms. Hampton:

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# 360135.

The City of Bryan (the "city") received a request for copies of any noise complaints pertaining to a specified address in a specified time period. You claim that the submitted 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 that some of the information you have submitted to us for review is not responsive to the request for information. The request at issue seeks information pertaining to noise complaints at a specified address. However, we note you submitted two call reports that do not pertain to noise complaints at the specified address. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information, which we have marked, in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *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). 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. *See* Open Records Decision No. 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 1-2 (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 (1988). 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 the names and contact information in the submitted documents reveal the identity of individuals who reported to the city's police department alleged violations of Class C misdemeanors that carry criminal penalties. Based on your representations and our review, we conclude the identifying information is protected by common-law informer's privilege and may be withheld on that basis under section 552.101 of the Government Code. Accordingly, we have marked the information that the city may withhold under section 552.101 in conjunction with informer's privilege.

We note the remaining information contains Texas motor vehicle record information subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure "information [that] relates to...a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state [.]" Gov't Code § 552.130. Accordingly, the city must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code.

In summary, the city may withhold the information we have marked under section 552.101 in conjunction with common-law informer's privilege. The city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.²

¹The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²We note the remaining information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/jb

Ref: ID# 360135

Enc. Submitted documents

cc: Requestor
(w/o enclosures)