



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2009

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

OR2009-16355

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# 361602 (COSA File No. 09-1100).

The City of San Antonio (the "city") received a request for information pertaining to a specified address. You state you have released most of the requested information. You claim that portions of the submitted information are excepted from disclosure under section 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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).

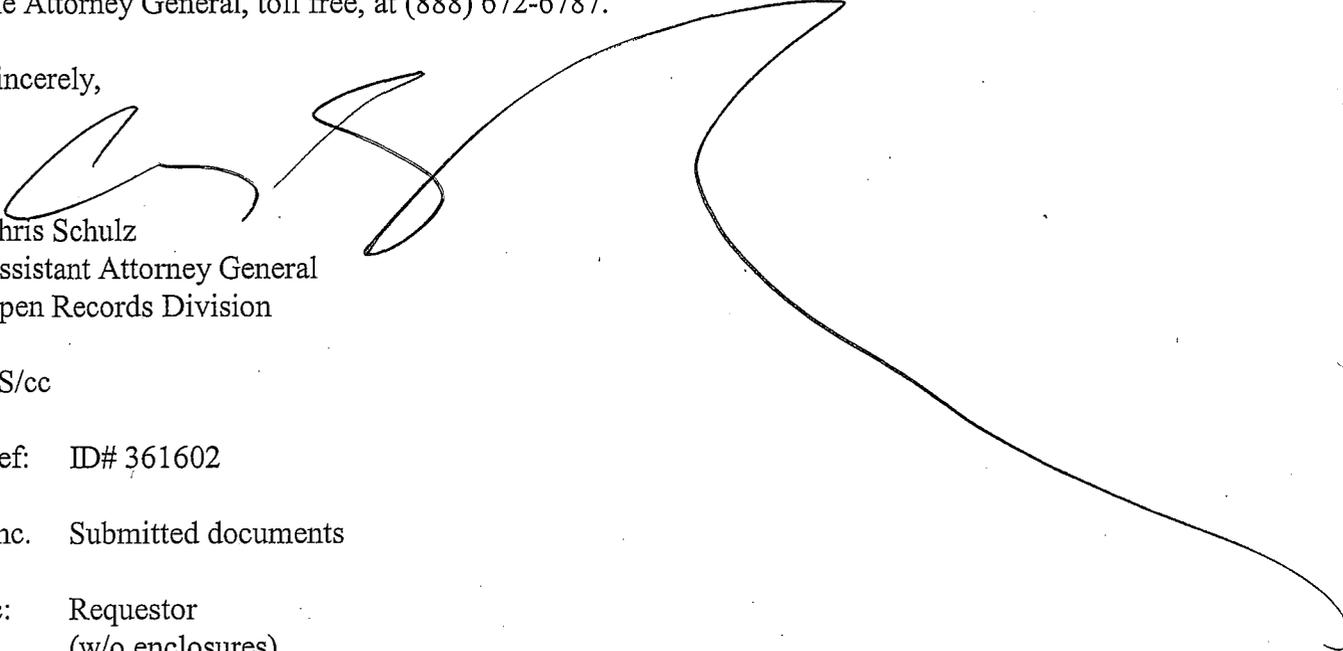
Although you generally state that the city seeks the authority to redact information that identifies the citizen informant, you have not provided our office with any arguments explaining how the informer's privilege applies to the submitted information. Accordingly, the city has failed to demonstrate that the informer's privilege applies to the submitted information. *See generally* Open Records Decision No. 150 (1977) (stating that predecessor to the Act places burden on governmental body to establish why and how exception applies to requested information). Therefore, the city may not withhold any of the submitted information under section 552.101 in conjunction with the informer's privilege.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We have marked the Texas motor vehicle record information that is confidential under section 552.130. We note, however, that the requestor may have an ownership interest in one of the vehicles listed in the submitted report. Thus, the requestor may have a right of access to information pertaining to this vehicle. *Id.* § 552.023(a) ("a person has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, we rule conditionally. To the extent that the requestor has an ownership interest in the vehicle at issue, the city must release Texas motor vehicle record information to the requestor. To the extent that this requestor does not have a right of access under section 552.023, the city must withhold the Texas motor vehicle record information we have marked under section 552.130. 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, toll free, at (888) 672-6787.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 361602

Enc. Submitted documents

cc: Requestor
(w/o enclosures)