



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 31, 2011

Mr. John S. Schneider  
First Assistant City Attorney  
City of Pasadena  
P.O. Box 672  
Pasadena, Texas 77501-0672

OR2011-01556

Dear Mr. John S. Schneider:

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# 407702 (SL1057).

The City of Pasadena (the "city") received a request for all city records from the Building Inspection and Neighborhood Services Department pertaining to a specified location, including the name of the person or organization that initiated the complaint in October of 2010. You state you will release some of the responsive information to the requestor. You claim that portions of the submitted information are 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 a portion of the submitted information, which we have marked, is not responsive to the instant request because it is not within the October 2010 time frame specified in the request. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive 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. This exception encompasses information protected by 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 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 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. 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 state that the marked information reveals the identity of individuals who reported alleged violations of city health code ordinances. You state, and provide documentation supporting, the city has the authority to enforce the ordinances at issue and that violations of these ordinances can result in civil penalties. You also indicate the identities of the reporting individuals are not known by the subject of the complaint. Upon review of the submitted information and your arguments, we conclude that you may withhold the identifying information of the individuals who reported the violations at issue, which we have marked, under section 552.101 in conjunction with the informer's privilege. However, we find you have failed to demonstrate the applicability of the common-law informer's privilege to any of the remaining information at issue. Accordingly, the city may not withhold any of the remaining responsive information under section 552.101 in conjunction with the informer's privilege.

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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 407702

Enc. Submitted documents

c: Requestor  
(w/o enclosures)