



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 28, 2011

Ms. Charlotte L. Staples
Taylor, Olson, Adkins, Sralla, Elam, L.L.P.
For the City of North Richland Hills
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2011-05832

Dear Ms. Staples:

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# 415855 (OR 2001-019).

The City of North Richland Hills (the "city"), which you represent, received a request for information pertaining to early trash disposal at a specified property. You state you have released some of the requested information. You claim 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.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by the 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 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) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law*, § 2374, at 767 (J. McNaughton rev. ed. 1961)). However, the informer's privilege does not apply where the informant's identity is known to the individual who is the subject of the complaint. *See* Open Records Decision No. 208 at 1-2 (1978). The informer's privilege

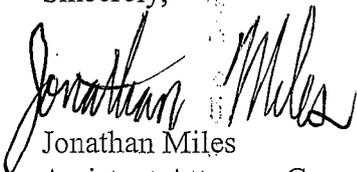
protects the content of the communication only to the extent that it identifies the informant. See Open Records Decision No. 549 at 5 (1990).

You state the submitted information is related to complaints of alleged violations of section 66-3 of the North Richland Hills City Code. You state there are criminal penalties for violation of this ordinance under section 34-1 of the North Richland Hills City Code and we understand a violation of this ordinance carries a penalty of a fine not to exceed \$2000. There is no indication the suspect knows the identity of the complainant in the submitted information. Therefore, based on your representations and our review of the submitted information, we conclude the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the informer's privilege. However, we find the remaining information you have marked does not constitute identifying information. Therefore, the city may not withhold this information pursuant to section 552.101 in conjunction with the informer's privilege. As the city raises no further exceptions to disclosure, the remaining 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, 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 415855

Enc. Submitted documents

c: Requestor
(w/o enclosures)