



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2013

Ms. Danielle R. Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2013-04882

Dear Ms. Folsom:

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# 487723 (GC# 20334).

The City of Houston (the "city") received a request for a specified e-mail alleging commercial use of a specified property and an associated photograph. You state the city will redact a Texas license plate number pursuant to the previous determination issued in Open Records Decision No. 684 (2009).¹ You state the city will release some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.130 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." Gov't Code § 552.101. You raise section 552.101 in conjunction with the common-law informer's privilege, which Texas courts have long recognized. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). The informer's privilege protects from disclosure

¹Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain information, including the portion of a photograph that reveals a Texas license plate number, under section 552.130(a)(2) of the Government Code, without the necessity of requesting an attorney general decision.

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. *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) (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 (1988).

You state some of the submitted information identifies a complainant who reported a residential parking permit violation to the city's Parking Management Division (the "division") of the city's Administrative and Regulatory Affairs Department. You explain the division is responsible for enforcing the city's parking regulations. You also state a violation of the parking regulation at issue carries civil penalties. You state the requestor does not already know the identity of the informers. Based upon your representations and our review, we conclude the city has generally demonstrated the applicability of the common-law informer's privilege to the information you have marked. However, we find you have not demonstrated how a portion of the information you marked identifies an individual who made the initial report of a criminal violation to the city for purposes of the informer's privilege. This information, which we marked for release, may not be withheld under section 552.101 in conjunction with the common-law informer's privilege. Therefore, with the exception of the information we marked for release, the city may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130(b). Accordingly, the city must withhold the license plate number you have marked under section 552.130 of the Government Code.

In summary, with the exception of the information we marked for release, the city may withhold the information you marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must withhold the license plate number you marked under section 552.130 of the Government Code. The city must release the remaining information.

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 487723

Enc. Submitted documents

c: Requestor
(w/o enclosures)