



January 27, 2015

Mr. Brandon W. Carr
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2015-01564

Dear Mr. Carr:

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# 551366 (W038179).

The City of Fort Worth (the "city") received a request for code complaint records for a specified address. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ 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 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

¹Although you do not raise section 552.130 of the Government Code in your brief, we understand you to assert this exception based on your markings.

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). However, individuals who provide information in the course of an investigation but do not report the violation are not informants for the purposes of claiming the informer’s privilege. 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). We note 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).

You state the submitted information you have marked identifies complainants who reported violations of the city code to city staff members charged with the enforcement of the city code. You state these violations are punishable by fine. We have no indication the accused knows the identities of the informers. Based upon your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer’s privilege to the identifying information of the complainants. Therefore, the city may withhold most of the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, the remaining information, which we have marked, does not identify an individual who reported a violation of the law, and the city may not withhold it under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. See *id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find you have failed to demonstrate the remaining information is highly intimate or embarrassing and of no legitimate public interest. Thus, the remaining information, which we have marked for release, may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. See Gov’t Code § 552.130. Upon review, we find the information you have marked, in addition to the information we have marked, consists of motor vehicle record information subject to section 552.130. Therefore, the city must

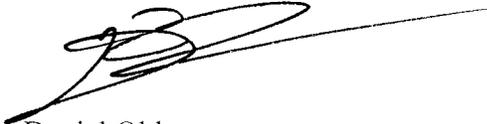
withhold the marked motor vehicle record information under section 552.130 of the Government Code.

In summary, with the exception of the information marked for release, the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must withhold the marked motor vehicle record information under section 552.130 of the Government Code. 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Daniel Olds
Assistant Attorney General
Open Records Division

DO/akg

Ref: ID# 551366

Enc. Submitted documents

c: Requestor
(w/o enclosures)