



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 1, 2015

Ms. Brandi M. Youngkin  
Assistant City Attorney  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2015-06217

Dear Ms. Youngkin:

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# 561681 (Plano File No. 15-002).

The City of Plano (the "city") received a request for a specified complaint. You claim a portion of the submitted information is 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 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. Section 552.101 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 the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided that the subject of the report does not already know their identities. Open Records Decision Nos. 515 at 2-3 (1988), 434 at 1-2 (1986), 208 at 1-2 (1978). For the informer's privilege to apply, the report must be of a

violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at (1990), 515 at 3-4. The privilege affords protection to individuals who report violations of statutes to criminal 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)).

You assert a portion of the submitted information reveals the identity of an individual who “reported a possible violation of law to officers charged with the enforcement of that law[.]” However, you do not inform us, nor does the submitted information reflect, that the alleged violations carry any civil or criminal penalties. *See* ORD 279 at 2. Thus, we find you have failed to demonstrate how any portion of the submitted information consists of the identifying information of an individual who made a report of a violation of a statute or ordinance to the city for purposes of the informer’s privilege. Accordingly, the city may not withhold any portion of the submitted information under section 552.101 of the Government Code on the basis of the common-law informer’s privilege.

We note the submitted information contains an e-mail address that is subject to section 552.137 of the Government Code.<sup>1</sup> Section 552.137 of the Government Code exempts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not of a type excluded by subsection (c). Therefore, the city must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. 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](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

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Berger", written over a printed name.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 561681

Enc. Submitted documents

c: Requestor  
(w/o enclosures)