



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 24, 2015

Ms. Josette Flores  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2015-17614

Dear Ms. Flores:

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# 576547 (City Ref. No. 15-1005-1029).

The City of El Paso (the "city") received a request for animal control records pertaining to a specified address. 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 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 826.0211 of the Health and Safety Code, which provides, in part:

- (a) Information contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal is confidential and not subject to disclosure under Chapter 552, Government Code. The information contained in the certificate or record may not include

the social security number or the driver's license number of the owner of the vaccinated animal.

Health & Safety Code § 826.0211(a). We note section 826.0211 is applicable only to information contained in a rabies vaccination certificate or in a record compiled from information contained in one or more rabies vaccination certificates. The submitted information includes a rabies vaccination certificate. Therefore, the city must withhold the owner's identifying information within the submitted rabies vaccination certificate, which we have marked, under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code.<sup>1</sup>

Section 552.101 of the Government Code also 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). 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. However, witnesses who provide information in the course of an investigation are not informants for purposes of claiming the informer's privilege.

You claim the informer's privilege for the identities of complainants who reported separate violations of section 7.08.030 of the city code. You state the alleged violations were reported to the city's police department and/or the city's code enforcement personnel. You state you have no indication the subjects of the complaints know the identities of the complainants. You also state a person violating any provision of Title 7 of the El Paso City Code is guilty of a misdemeanor punishable by a fine. Based on your representations and our review, we conclude the city may withhold the identifying information of the complainant we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted by informer's privilege so long as information furnished discloses potential violation of state law). However, the information at issue reveals the remaining reporting party was the alleged offender in the remaining report. Thus, the city may not withhold any portion of the

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

remaining information under section 552.101 in conjunction with the common-law informer's privilege.

We note the remaining information contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or 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.<sup>2</sup> Gov't Code § 552.130(a). Upon review, we find the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the city must withhold the owner's identifying information within the submitted rabies vaccination certificate, which we have marked, under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. The city may withhold the information we have marked under section 552.101 in conjunction with the common-law informer's privilege. The city must withhold the information we have 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.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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 576547

Enc. Submitted documents

c: Requestor  
(w/o enclosures)