



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 14, 2015

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2015-21604

Dear Ms. Nicholson:

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# 583190.

The City of Austin (the "city") received a request for all source of income housing discrimination complaints received by the city in 2015. You claim some 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. 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 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 information does not already know the informer's identity. *See Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978)*. The 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." *See Open Records Decision No. 279 at 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*

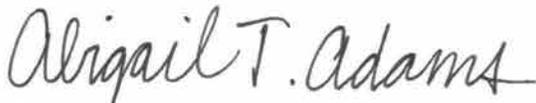
at 4-5. The privilege excepts the informer's statement only to the extent necessary to protect the informer's identity. *See* Open Records Decision No. 549 at 5 (1990).

You state the submitted information reveals the identities of complainants who filed source of income complaints with the city's Equal Employment/Fair Housing Office ("EEFH"). You state these complaints allege violations of federal, state, and local fair housing law and may result in civil penalties. You further state the EEFH has the authority to enforce the applicable sections of the city code related to fair housing. There is no indication the subjects of the complaints know the identities of the complainants. Based on your representations and our review, we conclude the city may withhold the identifying information of some of the complainants, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. However, the reporting party listed in the remaining information is a non-profit organization and not a person. We note the informer's privilege does not protect the identity of a corporation that reports a violation of the law, as a corporation is not an individual. *See Roviario v. United States*, 353 U.S. 53, 59 (1957); ORD 515 at 2. Thus, the informer's privilege is not applicable to the information related to the non-profit organization. Further, as none of the remaining information identifies an individual who reported a violation of the law, and the city may not withhold it under section 552.101 in conjunction with the common-law informer's privilege. As you raise no other exceptions, 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, 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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 583190

Enc. Submitted documents

c: Requestor
(w/o enclosures)