KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 9, 2015

Mr. M. Matthew Ribitzki
Deputy City Attorney
City of Burleson
141 West Renfro
Burleson, Texas 76028-4261

OR2015-25739

Dear Mr. Ribitzki:

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# 596817.

The City of Burleson (the "city") received a request for information pertaining to a complaint about a barking dog. 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 from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority. *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).

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).

You state the submitted information identifies an informant who reported a potential violation to the city's "Code Enforcement department, the entity in charge of investigating the crime." You state the violation at issue carries criminal penalties. You also state the requestor does not know the identity of the informer. Thus, we find the information we marked identifies an informer for purposes of the informer's privilege. Accordingly, the city may withhold the information we marked under section 552.101 in conjunction with common-law informer's privilege. However, we find the city has failed to demonstrate the applicability of the common-law informer's privilege to the remaining information. Consequently, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. As you have not claimed any other exceptions to disclosure, 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,

Jesse Harvey
Assistant Attorney General
Open Records Division

JH/eb

Ref: ID# 596817

Enc. Submitted documents

c: Requestor
(w/o enclosures)