



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2016

Ms. Paige Mebane
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2016-07151

Dear Ms. Mebane:

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# 603457 (PIR# W048376).

The City of Fort Worth (the "city") received a request for information pertaining to code complaints and requests for inspections for a specified property for a specified time period. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code.¹ We have considered the submitted arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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." *Id.* § 552.101. This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *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

¹Although you also raise Texas Rule of Evidence 508, we note the proper exception to raise when asserting the informer's privilege for information not subject to section 552.022 of the Government Code is section 552.101 of the Government Code in conjunction with the common-law informer's privilege. *See* Open Records Decision Nos. 677 (2002), 676 at 6 (2002). Although you do not raise section 552.130 in your brief, we understand you to raise this exception based on your markings in the documents.

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 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).

The city states the submitted information contains identifying information of complainants who reported possible violations of the City Code, which provides for a fine of up to \$2000, and these complaints were made to staff members who are charged with enforcing those provisions. Upon review, we conclude the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the informer's privilege.

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(a). We note section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code and it may not be withheld under section 552.130. *See id.* § 552.023(a) (person or person's authorized representative has special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Thus, the city may not withhold the motor vehicle record information you have marked under section 552.130 of the Government Code.

In summary, the city may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the informer's privilege. The city must release the remaining information.²

²We note the requestor has a special right of access to his own motor vehicle information being released. Gov't Code § 552.023. If the city receives another request for this information from a different requestor, section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

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,

A handwritten signature in black ink, appearing to read "Ramsey Abarca". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 603457

Enc. Submitted documents

c: Requestor
(w/o enclosures)