



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 13, 2016

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

OR2016-20657

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# 626105 (El Paso Reference No. 16-1018-037).

The City of El Paso (the "city") received a request for information 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 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, provided the 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).

You state some of the submitted information identifies a complainant who reported a violation of a city ordinance to the city's police department and/or the city's code enforcement personnel. You explain the alleged violation is a misdemeanor punishable by fine. You also inform us that you have no indication the subject of the complaint knows the identity of the complainant. Based on your representations and our review, we conclude the city may withhold the identifying information of the complainant, which 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 from disclosure by informer's privilege so long as information furnished discloses potential violation of state law).

Section 552.101 of the Government Code also 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 remaining information includes a rabies vaccination certificate. Therefore, the city must withhold the owner's identifying information within the information at issue, which we have marked, under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code.

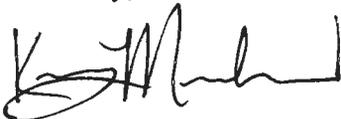
In summary, the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The city must withhold the owner's identifying information within the submitted rabies vaccination certificate, which we have marked, under section 552.101 of the Government Code in

conjunction with section 826.0211 of the Health and Safety Code. The city must release the remaining information.

You ask this office to issue a previous determination permitting the city to withhold information contained in a rabies vaccination certificate 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 under section 552.101 of the Government Code in conjunction with section 826.0211(a) of the Health and Safety Code without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). After due consideration, we have decided to grant your request on this matter. Therefore, this letter ruling authorizes the city to withhold information contained in a rabies vaccination certificate 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 under section 552.101 of the Government Code in conjunction with section 826.0211(a) of the Health and Safety Code without requesting a ruling from this office. We note section 826.0211(b) permits the city to disclose such information to "a governmental entity or a person that, under a contract with a governmental entity, provides animal control services or animal registration services for the governmental entity for purposes related to the protection of public health and safety." Health & Safety Code § 826.0211(b). So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the city need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7-8 (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 626105

Enc. Submitted documents

c: Requestor
(w/o enclosures)