



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 14, 2015

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

OR2015-09447

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# 569381.

The City of Austin (the "city") received a request for the identifying information of a person who reported a specified complaint. You claim a portion 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.

Initially, we note the requestor only seeks the identity of the complainant, which you have marked. Accordingly, the remaining submitted information is not responsive to the instant request. The city need not release non-responsive information in response to this request, and this ruling will not address that information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 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.

You have marked information the city seeks to withhold under the common-law informer's privilege. You explain the marked information identifies an individual who reported an alleged violation of section 25-10-102 of the Austin City Code to the city's Code Compliance Department, which has the authority to enforce this section of the code. You state a violation of section 25-10-102 is a Class C misdemeanor and can be prosecuted at Municipal Court. Further, the request for information reveals the subject of the complaint does not already know the identity of the complainant. Based on your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer's privilege to the responsive information you have marked. Therefore, the city may withhold the responsive information you 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).

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 cursive script that reads "Britni Fabian".

Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 569381

Enc. Submitted documents

c: Requestor
(w/o enclosures)