



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 4, 2016

Mr. Jessie Lopez  
Counsel for City of Helotes  
Davidson Troilo Ream & Garza PC  
601 Northwest Loop 410, Suite 100  
San Antonio, Texas 78216-5511

OR2016-05105

Dear Mr. Lopez:

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# 606707 (City ID Nos. 15/16-82 and 15/16-83).

The City of Helotes (the "city"), which you represent, received two requests for two specified complaints. You state the city released some information. 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. We have also received and considered comments from one of the requestors. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. The city raises 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 the informer's identity. *See* Open Records Decision NO. 549 at 5 (1990).

The city claims the informer's privilege for the identity of a complainant who reported alleged violations of section 1.7 of the city's Code of Ordinances. The city states it has no indication the subjects of the complaints know the identity of the complainant. The city also states a person violating the code sections at issue is guilty of a misdemeanor. Based on these 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 by informer's privilege so long as information furnished discloses potential violation of state law). However, the city has failed to demonstrate any of the remaining information identifies an individual who made a report of a criminal violation to the city for purposes of the informer's privilege. Accordingly, the city may not withhold any of the remaining information under section 552.101 of the Government Code on that basis. As you raise no other exceptions to disclosure, the remaining information must be released.<sup>1</sup>

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](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

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<sup>1</sup>We note the requestors have special rights of access to some of the information being released in this instance. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles).

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 "Paige Thompson". The signature is written in a cursive, flowing style.

Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/bw

Ref: ID# 606707

Enc. Submitted documents

c: Requestors  
(w/o enclosures)