



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 16, 2016

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

OR2016-11125

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# 616730.

The City of Austin (the "city") received a request for the contact information of the person that made a specified complaint. You claim 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, with the exception of the contact information of the complainant, the submitted information is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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 state the responsive information identifies a complainant who reported a possible violation of section 3-2-15 of the city’s Code of Ordinances using the city’s 3-1-1 system. You state the 3-1-1 system routed the report of the alleged violation to the city’s Animal Services Department, which has the authority to enforce this section of the code. You state a violation of section 3-2-15 is punishable by a fine of up to \$500. 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. Therefore, the city may withhold the responsive information 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, appearing to read "Paige Thompson".

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 616730

Enc. Submitted documents

c: Requestor
(w/o enclosures)