



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 17, 2017

Mr. Ron G. MacFarlane, Jr.
Counsel for the City of Cedar Hill
The MacFarlane Firm, P.C.
400 East Royal Lane, Suite 290
Irving, Texas 75039

OR2017-08086

Dear Mr. MacFarlane:

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# 653541.

The City of Cedar Hill (the "city"), which you represent, received a request for a specified report and a specified body worn camera recording. 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 contend the submitted information reveals the identity of an informer who reported a possible criminal violation of law to the city's police department. You indicate the subject of the report does not know the informer's identity. Based upon your representations and our review, we conclude the city has demonstrated the applicability of the common-law informer's privilege to the information we have marked and Exhibit D. Therefore, the city may withhold the information we have marked and Exhibit D in its entirety under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.¹ However, we find you have failed to demonstrate the remaining information at issue identifies an informer 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 in conjunction with the common-law 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.² *See* Gov't Code § 552.130(a). Upon review, we find portions of the remaining information consist of motor vehicle record information. Thus, the city must generally withhold the information we have marked under section 552.130 of the Government Code. However, we note section 552.130 protects privacy. In this instance, the requestor may have a right of access to the marked motor vehicle record information under section 552.023 of the Government Code. *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 law intended to protect that person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). To the extent the motor vehicle record information we have marked belongs to the requestor, she has a right of access under section 552.023 to her own information, and the city may not withhold such information under section 552.130 from the requestor. To the extent the motor vehicle record information we have marked does not belong to the requestor, the city must withhold the marked information under section 552.130 of the Government Code.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

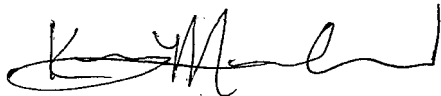
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city may withhold the information we have marked and Exhibit D in its entirety under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. To the extent the motor vehicle record information we have marked does not belong to the requestor, the city must withhold the marked information under section 552.130 of the Government Code. The city must release the remaining information.

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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/sdk

Ref: ID# 653541

Enc. Submitted documents

c: Requestor
(w/o enclosures)