



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 28, 2017

Mr. Matthew Grove
Assistant County Attorney
County of Fort Bend
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2017-19584

Dear Mr. Grove:

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# 679250.

Fort Bend County (the "county") received a request for records related to a specified cat. 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.

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 a portion of the submitted information identifies a complainant who reported possible violations of Fort Bend County rules to Control Rabies and Animal Control

Regulations (“regulations”) to the county’s Animal Control Office, which has the authority to enforce the regulations. You state a person found to be in violations of the regulations is guilty of a Class C misdemeanor. Further, the request for information reveals the subject of the complaint does not already know the identities of the complainant. Based upon your representations and our review, we conclude the county has demonstrated the applicability of the common-law informer’s privilege to some of the information you have marked. Accordingly, with the exception of the information we have marked for release, the county may withhold the information you have marked under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege. However, you have failed to establish the applicability of the informer’s privilege to any of the remaining information you have marked, and you may not withhold it under section 552.101 on that ground. Therefore, the county must release the remaining information.¹

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,



Tim Neal
Assistant Attorney General
Open Records Division

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¹We note the requestor has a special right of access to his e-mail address pursuant to section 552.137(b) of the Government Code. *See* Gov’t Code § 552.137(b) (personal e-mail address of member of public may be disclosed if owner of address affirmatively consents to its disclosure). Open Records Decision No. 684 (2009) serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the county receives another request for this information from a requestor who does not have such a right of access, Open Records Decision No. 684 authorizes the county to redact the requestor’s e-mail address under section 552.137 of the Government Code without the necessity of requesting a decision under the Act.

Ref: ID# 679250

Enc. Submitted documents

c: Requestor
(w/o enclosures)