



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 20, 2018

Ms. Lisandra Leal
Records Analyst
City of North Richland Hills
P.O. Box 820609
North Richland Hills, Texas 76180

OR2018-03925

Dear Ms. Leal:

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# 698067 (Ref. No. W001673-120717).

The City of North Richland Hills (the "city") received a request for e-mails of a named individual with specified terms. The city claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, the city informs us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2017-29278 (2017). In Open Records Letter No. 2017-29278, we determined some of the information at issue was excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy and the informer's privilege, but the city must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the city must continue to rely on Open Records Letter No. 2017-29278 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

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. 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. *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).

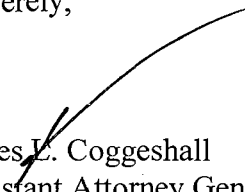
The city states the information it has marked in Exhibit E identifies complainants who reported violations of city ordinances to the city's Code Compliance Department (the "department"). The city explains the department is responsible for enforcing the relevant portions of the city ordinance. The city also states a violation of the relevant city ordinance carries civil or criminal penalties. Upon review, we conclude the city has demonstrated the applicability of the common-law informer's privilege to the information at issue. Therefore, the city may withhold the information it has marked in Exhibit E under section 552.101 of the Government Code in conjunction with the common-law informer's privilege.

In summary, the city must continue to rely on Open Records Letter No. 2017-29278 as a previous determination and withhold or release the identical information in accordance with that ruling. The city may withhold the information it has marked in Exhibit E under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tdw

Ref: ID# 698067

Enc. Submitted documents

c: Requestor
(w/o enclosures)