



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 23, 2019

Mr. Austin R. Beck  
Counsel for City of Helotes  
Davidson Troilo Ream & Garza, PC  
601 NW Loop 410, Suite 100  
San Antonio, Texas 78216-5511

OR2019-23598

Dear Mr. Beck:

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# 782526.

The City of Helotes (the "city") received a request for a complaint submitted about a specified business. The city states that it has 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.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *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. 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).

The city states the information it has marked identifies a complainant who reported violations of city ordinances. The city explains the violations were reported to city officials responsible for enforcing the city's Municipal Code. We understand violation of the relevant city ordinances carries criminal penalties. Based on these representations and our review, we conclude the city may withhold the information we marked under section 552.101 of the Government Code in conjunction with the informer's privilege. However, upon review, we find you have failed to establish the remaining information identifies an individual who reported a possible violation of a city ordinance. Accordingly, the city may not withhold any portion of the remaining information on the basis of section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The remaining information must be released.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Sean McCormick  
Assistant Attorney General  
Open Records Division

SMI/eb

Ref: ID# 782526

Enc. Submitted documents

c: Requestor  
(w/o enclosures)