



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 11, 2019

Ms. Loretta Perez
Public Information Coordinator

Mr. Benjamin Lugg
Attorney
San Antonio Housing Authority
P.O. Box 1300
San Antonio, Texas 78295-1300

OR2019-34937

Dear Ms. Perez and Mr. Lugg:

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# 803366.

The San Antonio Housing Authority (the "authority") received a request for two categories of information pertaining to the requestor. 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.

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 authority 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). However, witnesses who provide information in the course of an investigation but do not make a report of the violation are not informants for the purposes of claiming the informer’s privilege. 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). We note the informer’s privilege does not apply where the informant’s identity is known to the individual who is the subject of the complaint. See ORD 208 at 1-2.

The authority argues the submitted information identifies complainants. You have not explained whether these individuals reported to the authority activities over which the authority has enforcement authority that are violation of law that carry civil or criminal penalties. Accordingly, we find the authority has not demonstrated any portion of the submitted information identifies a complainant for purposes of the common-law informer’s privilege. Therefore, the authority may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with the common-law informer’s privilege.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).¹ See Gov’t Code § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the authority must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The authority must release the remaining information.²

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.

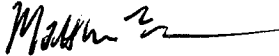
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

¹ The 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).

² The information being released contains a partial social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office. See Gov’t Code § 552.147(b). We note the requestor has a right of access to the information being released. See *id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the authority must again seek a decision from this office if it receives another request for the same information from another requestor.

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,

A handwritten signature in black ink, appearing to read "Matthew Taylor", followed by a horizontal line.

Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/rm

Ref: ID# 803366

Enc. Submitted documents

c: Requestor
(w/o enclosures)