



February 17, 2000

Mr. Bernardo Garcia, Sr.  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002

OR2000-0603

Dear Mr. Garcia:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131818.

The Harris County Rabies/Animal Control Office (the "HCRAC") received a request for information related to the owners of registered dangerous dogs. You have submitted a representative sample of the information at issue.<sup>1</sup> You claim that the information you have submitted as Exhibit B is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 822.042 of the Health and Safety Code requires the owners of dogs who have been determined to be dangerous to be registered "with the animal control authority for the area in which the dog is kept." You inform us that the county has adopted animal control regulations which require the registration of dogs and cats within the jurisdiction of the county. *See* Health & Safety Code § 826.014. Section 8 of the Harris County Animal Regulations requires the owners of dangerous dogs to register with the HCRAC. Thus, the HCRAC is the entity which maintains the county registry of dogs. *See* Health & Safety Code § 826.031. The Seventy-sixth Legislature added section

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

826.0311 to the Health and Safety Code, providing that “[i]nformation that is contained in a municipal or county registry of dogs and cats under Section 826.031 that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered dog or cat is confidential and not subject to disclosure under Chapter 552, Government Code.” Health & Safety Code § 826.0311(a). The registry information may be disclosed only to a governmental body for purposes related to the protection of public health and safety. Health & Safety Code § 826.0311(b). The requestor is not a governmental body. Accordingly, you must withhold the information we have marked as it is confidential under section 826.0311 of the Health and Safety Code in conjunction with section 552.101 of the Government Code.

We note that one of the submitted documents appears to consist of an individual’s personal financial information which must be withheld under common law privacy. Section 552.101 encompasses common law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992). We have marked the information that must be withheld under common law privacy. Open Records Decision Nos. 600 (1992), 545 (1990) (personal financial information not relating to financial transaction between individual and governmental body is protected by common law privacy).

However, one of the submitted documents appears to be a record filed with a court. Specifically, the document is the “Determination on Dangerous Dog Declaration.” Documents filed with a court are generally considered public and must be released. *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992); Gov’t Code § 552.022(a)(17). We additionally note that one of the documents in Exhibit B does not appear to consist of information that HCARC uses to “register” dangerous dogs. Specifically, the kennel admission form is not excepted from disclosure under section 826.0311 of the Health and Safety Code in conjunction with section 552.101 of the Government Code. Therefore, you must release the “Determination on Dangerous Dog Declaration” and the kennel admission form to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ch

Ref: ID# 131818

Encl. Marked documents

cc: Ms. Sue Speck  
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(w/o enclosures)