



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 25, 2003

Mr. Leonard V. Schneider
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2003-8509

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 191763.

The League City Police Department (the "department"), which you represent, received a request for information relating to a particular dog-bite incident. You inform us that most of the requested information has been released to the requestor but claim that one document 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information that other statutes make confidential. You claim that the document at issue is confidential under section 801.353 of the Occupations Code. This section provides in part:

- (a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian's client.
- (b) A veterinarian may not be required to release information concerning the veterinarian's care of an animal, except on the veterinarian's receipt of:
 - (1) a written authorization or other form of waiver executed by the client; or
 - (2) an appropriate court order or subpoena.

Occ. Code § 801.353(a), (b). Section 801.353 limits a veterinarian's release of information concerning the veterinarian's care of an animal to certain circumstances. *See id.* This section does not prohibit a governmental body from releasing information that has been provided to the governmental body. In addition, we note that section 801.353 does not expressly make information confidential. Statutory confidentiality must be express and cannot be implied from the overall statutory structure. *See* Open Records Decision Nos. 658 at 4 (1998); *see also* Open Records Decision No. 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public). We therefore conclude that the document at issue is not made confidential by section 801.353, and it may not be withheld under section 552.101 on that basis. Because you do not claim any other exception to disclosure and the information is not otherwise confidential by law, the document at issue must be released.

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).

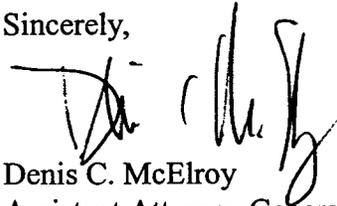
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

Ref: ID# 191763

Enc. Submitted documents

c: Mr. Jimmy Hayhurst
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(w/o enclosures)