ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 19, 2005

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046

OR2005-06409

Dear Mr. Mann:

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# 228313.

The City of Garland (the "city") received a request for records relating to a specific incident involving a dog. You state that you have released a portion of the requested information, but claim that the remainder of the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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." This exception encompasses information made confidential by other statutes. Section 826.0311 of the Health and Safety Code, in relevant part, states the following:

> (a) Information 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.
>
> (b) The information may be disclosed only to a governmental entity for purposes related to the protection of public health and safety. A governmental entity that receives the information must maintain the confidentiality of the information, may not disclose the information under

> Chapter 552, Government Code, and may not use the information for a purpose that does not directly relate to the protection of public health and safety.

Health & Safety Code § 826.0311(a), (b). We note that this section makes confidential only information contained in a pet registry "that identifies or tends to identify the [pet] owner or an address, telephone number, or other personally identifying information[.]" *Id.* A governmental body may not withhold an entire pet registry record under section 826.0311. You state that the information at issue is a pet registry record. Based on your representation and our review of the information at issue, we find that section 826.0311 is applicable in this instance. You do not inform us that the requestor is a governmental entity or that the requestor is requesting the information for public health and safety purposes. Thus, we conclude that the identifying information of the pet owner we have marked in the pet registry record is confidential. *See* Health & Safety Code § 826.0311(a). Therefore, the city must withhold this information from the requestor under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. The remaining information contained in the pet registry record must be released.

Next, we address your section 552.130 arguments for the remaining documents. Section 552.130 of the Government Code provides in relevant part:

> (a) Information is excepted from the requirement of Section 552.021 if the information relates to:
>
> > (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
> >
> > (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. Therefore, the city must withhold from disclosure the Texas motor vehicle record information you have marked under section 552.130.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. The city must withhold the Texas motor vehicle record information you have marked under section 552.130 of the Government Code. The remaining submitted information must be released 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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,

James A. Person III
Assistant Attorney General
Open Records Division

JAP/sdk

Ref: ID# 228313

Enc. Submitted documents

c: Ms. Laura Young
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Garland, Texas 75043
(w/o enclosures)