



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 8, 2006

Mr. John J. Carlton  
Armbrust & Brown, L.L.P.  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701-2744

OR2006-02333

Dear Mr. Carlton

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 243743.

The Pflugerville Police Department (the "department") received a request for five categories of information pertaining to animal control. You state that the department has no information responsive to a portion of the request. We note that the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986). You state that you will release most of the responsive information, but claim that a portion of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions 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 made confidential by other statutes. Section 826.0211 of the Health and Safety Code provides in pertinent part that "[i]nformation contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal is confidential and not subject to disclosure under Chapter 552, Government Code." Health & Safety Code § 826.0211(a) (emphasis

added).<sup>1</sup> The only exception to this confidentiality is that the information may be disclosed “to a governmental entity for purposes related to the protection of public health and safety.” *Id.* § 826.0211(b). You assert that section 826.0211 applies because “the requested records contain information extracted from rabies vaccination certificates that identifies the owners of impounded animals, including addresses and telephone numbers.” Upon review, we agree that section 826.0211 is applicable to some of the information at issue. Accordingly, we conclude that the information we have marked is confidential under section 826.0211 of the Health and Safety Code, and thus must be withheld under section 552.101 of the Government Code.<sup>2</sup> However, the remaining information does not constitute personally identifying information of an owner of a vaccinated animal; therefore, this 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).

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<sup>1</sup>As amended by Act of June 18, 2005, 79<sup>th</sup> Leg., R.S., ch. 1235, § 1, 2005 Tex. Sess. Law Serv. (Vernon).

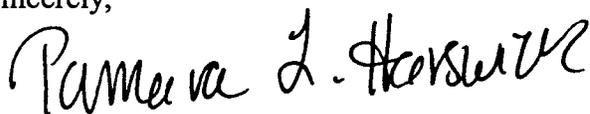
<sup>2</sup>As our ruling is dispositive, we need not address your argument under section 552.117.

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 Office of the Attorney General 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. 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,



Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/sdk

Ref: ID# 243743

Enc. Submitted documents

c: Ms. Monika M. Hill  
11514 Travis Street  
Jonestown, Texas 78645  
(w/o enclosures)