



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2007

Mr. Ron G. MacFarlane, Jr.
Dealey, Zimmermann, Clark Malouf & MacFarlane, P.C.
3131 Turtle Creek Boulevard Suite 1201
Dallas, Texas 75219-5415

OR2007-14803

Dear Mr. MacFarlane:

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# 295348.

The City of Cedar Hill (the "city"), which you represent, received a request for information relating to two dogs that were captured by animal control. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 826.0211 of the Health and Safety Code. As amended by the 80th Legislature, section 826.0211 provides in part:

- (a) Information 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. The information contained in the certificate or record may not include

the social security number or the driver's license number of the owner of the vaccinated animal.

Act of May 28, 1999, 76th Leg., R.S., ch. 1069, 1999 Tex. Gen. Laws 3921, *amended by* Act of May 25, 2007, 80th Leg., R.S., ch. 686, § 1, 2007 Tex. Sess. Law Serv. 1268. You contend that an individual's name and address are confidential under section 826.0211. You state that the individual is the owner of vaccinated animals. We note, however, that the information at issue is contained in kennel cards and redemption forms, rather than in a rabies vaccination certificate. *See id.* You do not indicate that the information at issue was compiled from information contained in rabies vaccination certificates. *Id.* Therefore, because you have not demonstrated that the information at issue falls within the scope of section 826.0211 of the Health and Safety Code, we conclude that the city may not withhold the information on that basis under section 552.101 of the Government Code. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). As you claim no other exception to disclosure, all of the submitted information 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).

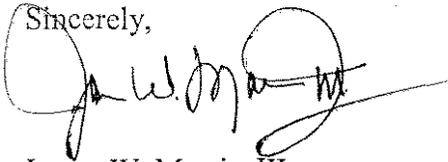
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ma

Ref: ID# 295348

Enc: Submitted documents

c: Mr. Anthony Sala
1101 Brookside Drive
Cedar Hill, Texas 75104
(w/o enclosures)