



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2008

Mr. Dewey E. Helmcamp III
Executive Director
Texas Board of Veterinary Medical Examiners
333 Guadalupe Suite 3-810
Austin, Texas 78701-3942

OR2008-12977

Dear Mr. Helmcamp:

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# 322556.

The Texas Board of Veterinary Medical Examiners (the "board") received two requests from the same requestor for information relating to (1) persons to whom the board mailed a complaint form or who were referred to the board's website to download a complaint form during a specified time interval; and (2) the complaint log kept by the board during a specified time interval. You state that the board does not maintain records of persons who were referred to its website to download a complaint form.¹ You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also notified third parties to whom the submitted information pertains of their right to submit comments to this office as to why the information should or should not be released.² See Gov't Code § 552.304. We have considered the exception you claim and reviewed the submitted information.

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App. – San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

²As of the date of this decision, this office has received no correspondence regarding the information at issue from any third party.

Section 552.101 of the Government Code 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 another statute makes confidential. You claim that the submitted information is confidential under section 801.207 of the Occupations Code. Section 801.207(b) provides that "[a]n investigation record of the board, including a record relating to a complaint that is found to be groundless, is confidential." Occ. Code § 801.207(b); *see also* 22 T.A.C. § 575.27 (complaints – receipt, investigation and disposition). You state that the submitted information consists of the names and addresses of individuals who requested and were sent a complaint form. Although you seek to withhold all of the submitted names and addresses under section 801.207(b), you do not inform us whether any of these individuals has actually filed a complaint with the board or whether any complaint filed by any of these individuals has become part of an investigative file. Accordingly, we must rule in the alternative. Therefore, we conclude that to the extent that the individuals whose information is at issue have filed a complaint with the board that resulted in an investigation, the board must withhold the names and addresses of any such individuals under section 552.101 of the Government Code in conjunction with section 801.207(b) of the Occupations Code. But to the extent that these individuals have not filed a complaint with the board or have filed a complaint that did not result in an investigation, their names and addresses are not confidential under section 552.101 in conjunction with section 801.207(b) and 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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,

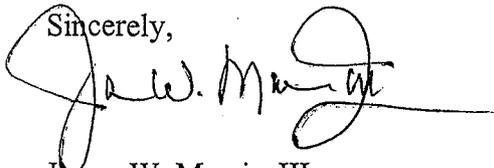
toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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/jh

Ref: ID# 322556

Enc: Submitted documents

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