



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 12, 2008

Ms. Toni Chrestman  
City Secretary  
City of Slaton  
130 South 9<sup>th</sup> Street  
Slaton, Texas 79364

OR2008-16968

Dear Ms. Chrestman:

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# 330668.

The City of Slaton (the "city") received a request for animal adoption records from April to September 2008.<sup>1</sup> You claim that portions of the requested information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.<sup>2</sup>

Initially, we must address the city's obligations under section 552.301 of the Government Code. Section 552.301 prescribes procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Section 552.301(e) states, within fifteen business days of receiving the request, the governmental body must submit to this office a copy of the written request for

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<sup>1</sup>As you have not submitted a copy of the request for information, we take this description from your brief.

<sup>2</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

information and a signed statement as to the date on which the written request for information was received or evidence sufficient to establish that date. Gov't Code § 552.301(e)(1)(B), (C). As of the date of this ruling, the city has not submitted a copy of the written request for information, nor has the city established the date on which the request was received by the city. We therefore find that the city has failed to comply with the requirements of section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential by law. Open Records Decision No. 150 (1977). You claim that the identifying information of the owners in the requested adoption records are confidential under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. Because the application of section 552.101 can provide a compelling reason for non-disclosure under section 552.302, we will consider your claim under section 826.0311 for the requested 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." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes. Section 826.0311(a) 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. The information contained in the registry may not include the social security number or driver's license number of the owner of the registered animal.

(b) The information may be disclosed only to a governmental entity or a person that, under a contract with a governmental entity, provides animal control services or animal registration services for the governmental entity for purposes related to the protection of public health and safety. A governmental entity or person 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). You inform us that the request for information in this instance is for the city's "animal adoption records." You do not state that the requested adoption records are part of the city's pet registry. We note that section 826.0311 only applies to the actual pet registry; it is not applicable to the contents of other records, even though those documents may contain the same information as the pet registry. *See* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). Therefore, we find that you have failed to establish that the identifying information of the owners in requested adoption records is confidential under section 826.0311 of the Health and Safety Code. Accordingly, the identifying information of the owners may not be withheld under section 552.101 in conjunction with section 826.0311 of the Health and Safety Code. As you raise no further exceptions to disclosure, the adoption records must be released to the requestor in their entirety.

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,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/jb

Ref: ID# 330668

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)