



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 22, 2009

Ms. Marivi Gambini  
City Attorney's Office  
City of Irving  
825 West Irving Boulevard  
Irving, Texas 75060

OR2009-18111

Dear Ms. Gambini:

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# 365117.

The City of Irving (the "city") received a request for (1) a specified notice, (2) city records created in response to a specified call, (3) records pertaining to a specified animal, (4) records pertaining to an animal captured by the city's Animal Control officers on a specified date, and (5) records showing "how many usable [Irving Animal Services] vehicles the [c]ity had available for use" on a specified date. You indicate that only information responsive to part three of the request exists in the city's records.<sup>1</sup> You claim portions of the submitted 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.

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 section encompasses information protected by other statutes. Section 826.0211 of the Health and Safety Code 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

---

<sup>1</sup>We 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 dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

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.

Health & Safety Code § 826.0211(a). We note that section 826.0211 is applicable only to information contained in a rabies vaccination certificate or in a record compiled from information contained in one or more rabies vaccination certificates. You state the submitted information was compiled from a rabies vaccination certificate. You seek to withhold the portions of the submitted information you have highlighted. Upon review, we agree the identifying information of the owner of the vaccinated animal, which we have marked, must be withheld under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. However, you have not demonstrated the remaining highlighted information identifies or tends to identify an owner of a vaccinated animal. Thus, we find you have failed to establish the remaining information is confidential under section 826.0211 of the Health and Safety Code, and it may not be withheld under section 552.101 on that basis.

You assert the remaining highlighted information is confidential under section 826.0311(a) of the Health and Safety Code. Section 826.0311 states, in relevant part:

(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 within the registry may not include the social security number or the 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.

*Id.* § 826.0311(a), (b). 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). The submitted information consists of an animal view report pertaining to a stray dog. Upon review, we find you have failed to establish any of the remaining highlighted information is contained in a municipal or county registry of dogs and cats and identifies or tends to identify the owner of a registered dog or cat. Therefore, the city may not withhold any of the remaining highlighted information under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code.

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. As no further exceptions to disclosure have been raised, the remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/dls

Ref: ID# 365117

Enc. Submitted documents

c: Requestor  
(w/o enclosures)