



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

OR2009-18137

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# 365752.

The City of Irving (the "city") received a request for records on all pets at a specified address. You claim the submitted information is 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, including section 826.0311 of the Health and Safety Code, which provides 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.

(b) The information may be disclosed only to a governmental entity for purposes related to the protection of public health and safety. A governmental entity 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 state the city contracts with PetData, Inc. ("PetData") to carry out the city's pet registration and licensing functions. You further state the submitted document consists of the record of registration created by PetData. Based upon your representations and our review, we find the submitted information consists of information contained in the city's pet registry. Thus, we agree section 826.0311 is applicable to the submitted information. Section 826.0311 provides for the confidentiality of information 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. Therefore, we have marked information that identifies or tends to identify the owners of registered dogs or cats that is confidential under section 826.0311. You indicate that the exception in section 826.0311(b) does not apply in this instance. Accordingly, the city must withhold the marked information under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code. However, none of the remaining information identifies an owner or consists of an address, telephone number, or other personally identifying information of an owner of a registered dog or cat. Therefore, no portion of the remaining information may be withheld under section 552.101 in conjunction with section 826.0311(a).

Section 552.101 also encompasses section 826.0211 of the Health and Safety Code, which provides in pertinent part:

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.

*Id.* § 826.0211(a). Although you also raise section 826.0211, we note that none of the remaining information identifies or tends to identify an owner, or consists of an address, telephone number, or other personally identifying information of an owner of a vaccinated animal. Therefore, no portion of the remaining information may be withheld on this basis.

We note that the remaining information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. *See* Attorney General Opinion JM-672 (1987). A governmental body

must allow inspection of materials that are subject to copyright protection unless an exception applies to the information. *See id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

In summary, the city must withhold the identifying information we have marked under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. The remaining information must be released, but any copyrighted information may only be released in accordance with copyright law.

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,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/cc

Ref: ID# 365752

Enc. Submitted documents

c: Requestor  
(w/o enclosures)