



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 10, 2010

Mr. Warren M. S. Ernst
Chief, General Counsel Division
City of Dallas
1500 Marilla Room 7BN
Dallas, Texas 75201

OR2010-02070

Dear Mr. Ernst:

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# 369910.

The City of Dallas (the "city") received a request for the applications received and permits issued to provide cat or dog foster care from 2008 and 2009. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You assert the submitted 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

¹We 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.

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 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.

Health & Safety Code § 826.0311(a), (b). Section 826.0311 only protects the identification of an owner contained in an 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 application and an authorization of entry and inspection form pertaining to an individual's application to be a foster care provider of dogs or cats, as well as a spreadsheet listing foster care applications received by the city. You do not explain, and we are unable to discern, how section 826.0311 could protect the identifying information of a pet foster care provider. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, the city may not withhold any of this information under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code.

You next claim the e-mail address you marked is excepted under section 552.137 of the Government Code, which excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body[,]" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). You state the e-mail address you marked is not subject to subsection (c). Accordingly, the city must withhold the e-mail address you marked under section 552.137, unless the owner of the e-mail address has consented to its release.² As you raise no other exceptions to disclosure, the remaining information must be released.

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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, 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,

A handwritten signature in black ink, appearing to read "Bob Davis", written in a cursive style.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 369910

Enc. Submitted documents

cc: Requestor
(w/o enclosures)