



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 3, 2010

Ms. Carol Freeman  
Ross, Banks, May, Cron & Cavin, P.C.  
2 Riverway, Suite 700  
Houston, Texas 77056

OR2010-11646

Dear Ms. Freeman:

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# 389109 (League City PIR #10-271).

The City of League City (the "city"), which you represent, received a request for all information related to a May 18, 2010, dog bite incident that occurred at a specified location. 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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 801.353 of the Occupations Code, which provides in part:

- (a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian's client.
- (b) A veterinarian may not be required to release information concerning the veterinarian's care of an animal, except on the veterinarian's receipt of:
  - (1) a written authorization or other form of waiver executed by the client; or
  - (2) an appropriate court order or subpoena.

Occ. Code § 801.353(a)-(b). This section limits a veterinarian's release of information concerning the veterinarian's care of an animal to certain circumstances. *Id.* However, section 801.353 does not prohibit the release of information that has been provided to a governmental body. Moreover, section 801.353 does not expressly make information confidential. A statutory confidentiality provision must be express, and a confidentiality requirement will not be implied from a statutory structure. *See* Open Records Decision No. 658 at 4 (1998); *see also* Open Records Decision No. 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public). Therefore, because section 801.353 does not make information confidential for purposes of the Act, the submitted information may not be withheld under section 552.101 on that basis.

You also raise section 826.0211 of the Health and Safety Code, which is also encompassed by section 552.101. Section 826.0211 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 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 [the Act]. 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 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. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection); *see also* ORD 478 at 2. Upon review, we find the information we marked in the submitted rabies vaccination certificate is made confidential by section 826.0211 and therefore must be withheld under section 552.101 of the Government Code. However, the remaining information you marked in the submitted vaccination certificate does not identify or tend to identify the animal's owner, and thus is not confidential under section 826.0211. Additionally, you do not provide any indication the remaining records were compiled from information in a rabies vaccination certificate. Thus, you have failed to demonstrate the applicability of section 826.0211 to the remaining information at issue, and it may not be withheld under section 552.101 on that basis.

Section 552.101 also encompasses information protected by the common-law informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). This privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2

(1978). The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5 (1988).

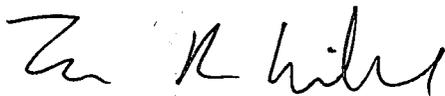
You state that a portion of the remaining submitted information reveals the identity of the individual who reported the dog bite to the city's Animal Services Department (the "department"). However, you have explained neither whether the department has criminal or quasi-criminal law enforcement authority over this incident, nor whether the dog bite is a violation of law that carries any civil or criminal penalties. Thus, we conclude you have failed to demonstrate the applicability of the common-law informer's privilege with regard to the remaining submitted information, and no information may be withheld under section 552.101 in conjunction with that privilege.

In summary, the city must withhold the information we marked in the submitted rabies vaccination certificate under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. 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,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TRW/eeg

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Enc. Submitted documents

cc: Requestor  
(w/o enclosures)