



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 29, 2010

Mr. Dewey E. Helmcamp III  
Executive Director  
Texas Board of Veterinary Medical Examiners  
333 Guadalupe, Suite 3-810  
Austin, Texas 78710-3942

OR2010-16424

Dear Mr. Helmcamp:

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# 398497.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for documents relating to a specified complaint. You claim that 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.

First, we must address the board's obligations under the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(a), (b). You state the board received the request on August 9, 2010. Accordingly, the board's ten-business-day deadline was August 23, 2010. However, we did not receive the board's request for a ruling from this office until August 25, 2010. Consequently, we find the board failed to comply with the requirements of section 552.301.

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. Because,

section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider whether this section requires the board to withhold any of the information at issue.

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 another statute makes confidential. You claim the submitted information is confidential under section 801.207 of the Occupations Code. Section 801.207(b) provides that "[a]n investigation record of the board, including a record relating to a complaint that is found to be groundless, is confidential." Occ. Code § 801.207(b). You indicate Exhibit C relates to a complaint filed with the board and its subsequent investigation. You state the submitted information is part of the board's investigation record of the complaint. Based on your representations and our review, we conclude Exhibit C is confidential under section 801.207 of the Occupations Code and must be withheld from disclosure under section 552.101 of the Government Code.

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,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/em

Ref: ID# 398497

Enc. Submitted documents

c: Requestor  
(w/o enclosures)