



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2011

Ms. Mariví Gambini
Paralegal
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2011-03549

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# 411147.

The City of Irving (the "city") received a request for all Irving Animal Services ("IAS") records related to a cat the requestor brought to IAS, including intake, release, adoption, and euthanasia records, and any photographs, citations, or notes left by IAS at the cat's residence. You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 made confidential by other statutes, such as section 826.0311 of the Health and Safety Code, which protects information in a pet registry. This section 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. 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 applies to the actual pet registry; it does not apply 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). You state that the city contracts with PetData, Inc. ("PetData") to carry out the city's pet registration and licensing functions. You further state that one of the submitted documents consists of the record of registration created by PetData. Based upon your representations and our review, we find that the submitted License Contract and Receipt consists of information contained in the city's pet registry. We agree that the information you have marked in the License Contract and Receipt identifies or tends to identify the owner of a registered cat, and is therefore subject to section 826.0311. You indicate that the exception in section 826.0311(b) does not apply in this instance. Therefore, you must withhold the information you have marked in the License Contract and Receipt under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code.¹ The remaining submitted document is an Animal View Report. You have not explained how the Animal View Report is part of the city's actual pet registry. Therefore, you have failed to demonstrate how the information you have marked in this document is confidential under section 826.0311(a). Accordingly, no portion of the Animal View Report may be withheld under section 552.101 on that basis.

You next raise section 826.0211 of the Health and Safety Code, which is also encompassed by section 552.101. Section 826.0211 provides, in relevant 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

¹ As our ruling is dispositive, we need not address your remaining argument under section 552.101 for this information.

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 and Safety Code § 826.0211(a). Section 826.0211 applies 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 have not explained how the information in the Animal View Report is contained in a rabies vaccination certificate or was compiled from information contained in one or more rabies vaccination certificates. Therefore, you have not demonstrated how the information you have marked in that document is confidential under section 826.0211 of the Health and Safety Code. Accordingly, no portion of the Animal View Report may be withheld under section 552.101 of the Government Code on that basis. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection); *see also* Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987).

In summary, the city must withhold the information you have marked in the License Contract and Receipt 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.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 411147

Enc. Submitted documents

c: Requestor
(w/o enclosures)