



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 8, 2011

Ms. Monica Hernandez
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 75283

OR2011-11363

Dear Ms. Hernandez:

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# 426621 (COSA No. W001376).

The City of San Antonio (the "city") received a request for all health department reports of a named business for the six months prior to the date of the request. You state the city has released some information to the requestor. You claim the submitted information is 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. Section 552.101 encompasses information made confidential by other statutes, such as section 81.046 of the Health and Safety Code. Section 81.046 provides in part:

- (a) Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.
- (b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and

may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Health & Safety Code § 81.046(a)-(b). In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created during an investigation under chapter 81 of the Health and Safety Code is confidential and may not be released unless an exception set out in the statute applies. *See id.* § 81.046(b)-(d), (f); ORD 577. You state the submitted information was gathered or created during an investigation of suspected cases of food-borne illnesses that was conducted under the provisions of chapter 81. Thus, we agree that section 81.046(b) governs the release of this information. You inform us none of the release provisions of section 81.046 are applicable in this instance. Accordingly, based upon your representations and our review of the submitted information, we agree the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety 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, 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/tf

Ref: ID # 426621

Enc. Submitted documents

c: Requestor
(w/o enclosures)