



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 29, 2011

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2011-17561

Dear Ms. Grace:

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# 437254.

The Austin/Travis County Health and Human Services Department (the "department") received a request for the inspection report pertaining to a possible food poisoning case at a specified restaurant. 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. 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 Texas Department of State Health Services 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 acquired or created during an investigation conducted by the department pursuant to the provisions of chapter 81; thus, we agree section 81.046 governs the release of this information. It does not appear that any of the release provisions of section 81.046 are applicable in this instance. Accordingly, we determine the department 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 437254

Enc. Submitted documents

c: Requestor
(w/o enclosures)