



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2012

Ms. Marivi Gambini
Paralegal
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR2011-17969A

Dear Ms. Gambini:

This office issued Open Records Letter No. 2011-17969 (2011) on December 6, 2011. We have examined this ruling and determined that an error was made in its issuance. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on December 6, 2011. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act ("Act")). This ruling was assigned ID# 450850.

The City of Irving (the "city") received a request for all records pertaining to the intake and release of a specified animal. You claim some of 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses section 826.0311 of the Health and Safety Code, which states 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 applies only 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 raise section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code for the identifying information in the submitted document. You state the city contracts with PetData, Inc. ("PetData") to carry out the city's pet registration and licensing functions. You further state the submitted document consists of the record of registration created by PetData, which a city employee obtained directly through the PetData software. Based upon your representations and our review, we find the submitted document consists of information contained in the city's pet registry. Further, the information we have marked identifies or tends to identify the owner of a registered dog, and is therefore subject to section 826.0311. You indicate the exception in section 826.0311(b) does not apply in this instance. Therefore, the city must withhold the information we have marked in the submitted document under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code. You have not demonstrated any of the remaining information identifies or tends to identify the owner of a registered dog or cat. Therefore, the city may not withhold any of the remaining information under section 552.101 of the Government Code on this basis.

You 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 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 & 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. Upon review, we find you have not demonstrated the remaining information identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal. Accordingly, we conclude the remaining information is not confidential under section 826.0211 of the Health and Safety Code and may not 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). As you raise no other exceptions to disclosure, 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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/em

Ref: ID# 450850

Enc. Submitted documents

c: Requestor
(w/o enclosures)