



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2011

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2011-18878

Dear Ms. Evans:

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# 440209 (Houston Reference No. 19037).

The City of Houston (the "city") received a request for any information pertaining to the adoption of any animals through a specified animal shelter by a named individual from January 1, 2008 through the date of the request, and any information pertaining to the removal of animals from a specified address from January 1, 2008 through the date of the request. You state you will provide the responsive information regarding the removal of any animals from the specified address to the requestor. 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.

Initially, you acknowledge the city failed to notify the requestor of the request for a ruling within the statutory time period prescribed by section 552.301(d) of the Government Code. *See Gov't Code § 552.301(d)*. Furthermore, we note the city failed to request a ruling from this office within ten business days of receiving the request as prescribed by section 552.301(b) of the Government Code and failed to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific

information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents, as prescribed by section 552.301(e) of the Government Code. *See id.* § 552.301(b), (e).

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 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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential by law. Open Records Decision No. 150 (1977). Because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will consider the applicability of this exception to the submitted information.

Section 552.101 of the Government Code excepts from public 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 protected by other statutes, such as section 826.0211 of the Health and Safety Code, which provides in 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). We note section 826.0211 is applicable 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 explained how the submitted information is contained in a rabies vaccination certificate or was compiled from information contained in one or more rabies vaccination certificates. Therefore, no portion of the submitted information is confidential under section 826.0211 of the Health and Safety Code and it 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, 478 at 2 (1987). As you raise no other exceptions to disclosure, the submitted 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", followed by a horizontal line extending to the right.

Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/ag

Ref: ID# 440209

Enc. Submitted documents

c: Requestor
(w/o enclosures)