



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2012

Ms. Monica Hernandez
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2012-17674

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# 470584 (COSA File No. W009721).

The City of San Antonio (the "city") received a request for all records related to (1) animals returned from San Antonio Pets Alive ("SAPA") that were euthanized by the city's Animal Care Services Department (the "department"); (2) animals that SAPA requested to be euthanized by the department; and (3) animals that were euthanized by the department that had been previously transferred to SAPA. You state the city will release some of the responsive 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 exception you claim and reviewed the submitted representative sample of information.¹

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 section encompasses information protected by other statutes. You

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

contend some of the submitted information is confidential under section 801.359 of the Occupations Code, which provides as follows:

- (a) The [State Board of Veterinary Medical Examiners (the “board”)] shall require each veterinarian to maintain a recordkeeping system for controlled substances as required by Chapter 481, Health and Safety Code.
- (b) The records are subject to review by a law enforcement agency or board representative.

Occ. Code § 801.359. You state the information you have marked is contained in a log book in which veterinarians maintain an inventory of controlled substances used in dealing with animals owned by the department. You contend section 801.359 “limits access to the log book to [a] law enforcement agency or a board representative.” You argue the information at issue should be withheld pursuant to section 801.359 because the requestor is not a representative of either a law enforcement agency or the board. Having considered your arguments, we find section 801.359 neither expressly makes any information confidential nor prohibits public disclosure of any information for purposes of section 552.101 of the Government Code. *See* Open Records Decision No. 478 at 2 (1987) (confidentiality under statutory predecessor to Gov’t Code § 552.101 required express language making certain information confidential or stating information shall not be released to public); *see also* Open Records Decision No. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). Therefore, the city may not withhold any of the information at issue under section 552.101 of the Government Code on the basis of section 801.359 of the Occupations Code.

The city claims some of the submitted information is confidential under section 801.353 of the Occupations Code. This section provides in part the following:

- (a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian’s client.
- (b) A veterinarian may not be required to release information concerning the veterinarian’s care of an animal, except on the veterinarian’s receipt of:
 - (1) a written authorization or other form of waiver executed by the client; or
 - (2) an appropriate court order or subpoena.

Occ. Code § 801.353(a), (b). Section 801.353 limits a veterinarian’s release of information concerning the veterinarian’s care of an animal to certain circumstances. *See id.* You state the information you have marked consists of veterinary records created by city veterinary

staff for animals that the department took from the community. You state the department "is both owner and caretaker of the animals it takes from the community, including those returned by SAPA." *See id.* § 801.351(a)(1) (defining "client" as "owner or other caretaker of the animal"). Thus, you represent the records at issue pertain to animals that are owned by the city and the city does not consent to the release of these records. *See id.* Finally, you state the requestor has not produced an appropriate court order or subpoena to release the information at issue. Based on your arguments and our review, we conclude the information at issue consists of veterinary records that are subject to the chapter 801 of the Occupations Code. Accordingly, the city may only release the information you have marked under section 801.353 of the Occupations Code in accordance with that section. 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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 470584

Enc. Submitted documents

c: Requestor
(w/o enclosures)