



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2012

Ms. Marivi Gambini
Paralegal
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2012-18791

Dear Ms. Gambini:

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# 470218.

The City of Irving (the "city") received a request for "the data the [c]ity was waiting on in order to determine if aerial spraying was needed in [the city]." 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. Additionally, we have received and considered comments submitted on behalf of Dallas County Health and Human Services ("DCHHS"). See Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). We have considered the submitted arguments and have 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." *Id.* § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 81.046 of the Health and Safety Code, which provides in relevant part the following:

(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.

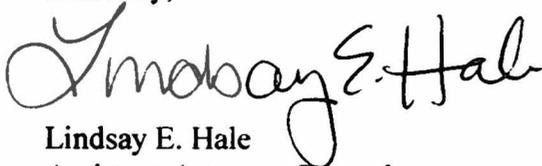
(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Health & Safety Code § 81.046(a), (b). The city and DCHHS both contend the submitted information is confidential under section 81.046. 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. DCHHS states the submitted information consists of information created or acquired by DCHHS that pertains to specific human cases or suspected human cases of West Nile Virus in the city. DCHHS further explains West Nile Virus is a reportable disease under chapter 81 of the Health and Safety Code and has caused death and illness in Dallas County. Accordingly, we understand the requested information was gathered or created during an investigation of a West Nile virus outbreak that was conducted by DCHHS pursuant to the provisions of chapter 81. Based on these representations and our review, we agree section 81.046 governs the release of this information. None of the release provisions of section 81.046 appear to be applicable. Accordingly, we determine 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 470218

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)