



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 11, 2013

Ms. Susan Fillion
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2013-00713

Dear Ms. Fillion:

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# 475930.

The Harris County Public Health and Environmental Services Office (the "county") received a request for the names of pets, the pets' age or date of license, and the zip code for all pets licensed in the county since January 1, 2007.¹ 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.

Initially, we note the pets' breeds and the pet owners' names, street addresses, and cities and states of residence are not responsive to the instant request because they do not consist of the information specified in the request. This ruling does not address the public availability of non-responsive information, and the county is not required to release non-responsive information in response to this request.

Next, we note you have not submitted information responsive to the request for the pets' ages or dates of license. To the extent information responsive to this portion of the request existed on the date the county received the request, we assume you have released it. *See Open*

¹We note the county sought and received clarification from the requestor regarding the request. *See Gov't Code § 552.222(b)* (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information that other statutes make confidential. *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 and 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 state the submitted documents "were obtained through the county's animal registry." You further state none of the exceptions in section 826.0311(b) apply in this instance. However, we find none of the responsive information consists of the address, telephone number, or other personally identifying information of a pet owner. You argue the responsive information should be withheld under section 552.101 in conjunction with section 826.0311 of the Health and Safety Code because the requestor may use the pets' names, ages, and zip codes of residence in conjunction with other information to identify the pet owners. We note the Act does not permit a governmental body or this office to consider a requestor's intended use of information. *See* Gov't Code § 552.222(a) (stating governmental body may not inquire into purpose for which information will be used); *see also* Open Records Decision Nos. 508 (1988) at 2 (motives of a person seeking information under the Act are

irrelevant), 51 (1974). Additionally, section 552.204 of the Government Code provides that a governmental body is not responsible for a requestor's use of information released pursuant to the Act. *See Gov't Code § 552.204(a)*. Therefore, whether this requestor might use the responsive information in conjunction with other available information to discover the identities of pet owners does not affect whether the responsive information is confidential under section 552.101 in conjunction with section 826.0311 of the Health and Safety Code. *See A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 675-76 (Tex. 1995) (holding PIA does not permit public information to be withheld because it might be used in conjunction with other publicly available information, thereby allowing requestor to deduce confidential information); *see also City of Lubbock v. Cornyn*, 993 S.W. 2d 461, 465 (Tex. App.—Austin 1999, no pet) (holding city could not withhold accident reports or public dispatch logs, even though requestor could obtain from the logs two pieces of information needed to request confidential accident reports). Thus, no portion of the responsive information may be withheld under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code.

Section 552.101 of the Government Code also encompasses 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. You state the responsive information was compiled from information contained in rabies certificates. However, no portion of the responsive information identifies or tends to identify any animal's owner, and, thus, none of the responsive information is confidential under section 826.0211. Accordingly, none of the submitted information may be withheld under section 552.101 of the Government Code on this basis.

The county also claims 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:

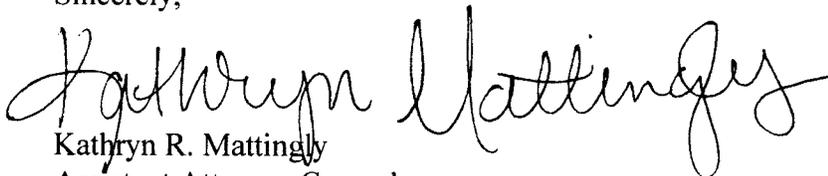
- (1) a written authorization or other form of waiver executed by the client; or
- (2) an appropriate court order or subpoena.

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.* Upon review, however, we find the county has failed to demonstrate the responsive information consists of veterinary records that are subject to chapter 801 of the Occupations Code. Thus, the county may not withhold any of the responsive information under section 552.101 of the Government Code in conjunction with section 801.353. Accordingly, the responsive 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 475930

Enc. Submitted documents

c: Requestor
(w/o enclosures)