



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 15, 2013

Ms. Monica Hernandez  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2013-04389

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# 481482 (COSA File No. W012178).

The City of San Antonio (the "city") received a request for a copy of the city's pet license registry. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the requested information may implicate the proprietary interests of Pet Data, Inc. ("Pet Data"). Accordingly, you have notified this third party of the request and of its right to submit arguments to this office as to why the requested information should not be released. *See Gov't Code* § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this decision, we have not received correspondence from Pet Data. Therefore, we have no

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<sup>1</sup>We 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 that submitted to this office.

basis to conclude Pet Data has protected proprietary interests in the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interests Pet Data may have in the 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” and encompasses information that other statutes make confidential. Gov’t Code § 552.101. Section 552.101 of the Government Code 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 state the information you seek to withhold consists of “printouts from the city’s dog and cat registry.” You further state none of the exceptions in section 826.0311(b) apply in this instance. Therefore, we conclude the information we have marked identifies or tends to identify the owner of registered dogs and cats, and is therefore subject to section 826.0311. Thus, you must withhold the information we have marked under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code. However, we find none of the remaining information consists of the address, telephone number, or other personally identifying information of a pet owner.

Thus, no portion of the remaining information may be withheld under section 552.101 in conjunction with section 826.0311 of the Health and Safety Code.<sup>2</sup>

The city claims some of the remaining 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.

...

(f) A veterinarian does not violate this section by providing the name or address of a client, or the rabies vaccination status of a specific client's specific animal, to a public health authority, veterinarian, physician, or other licensed health care professional who requests the identity of the client to obtain information for:

- (1) the verification of a rabies vaccination;
- (2) other treatment involving a life-threatening situation; or
- (3) a public health purpose.

(g) A public health authority that receives information under [s]ubsection (f) shall 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.

Occ. Code § 801.353(a), (f)-(g). Section 801.353(g) prohibits the public disclosure of certain information a public health authority obtains from a veterinarian for the reasons enumerated in subsection 801.353(f). You assert the submitted rabies vaccination information is confidential under section 801.353(g). You explain the city's Animal Care Services Director is the local rabies control authority and state the information at issue "was provided by the vaccinating veterinarian[s] to the pet owner[s] who then provided it to the [c]ity" during the pet licensing application process. Thus, based on the city's statements, we conclude the city obtained the vaccination information from the pet owners and not from the veterinarians under subsection 801.353(f) for one of the enumerated purposes. Therefore, we find you have failed to demonstrate the vaccination information at issue is confidential under section 801.353(g) of the Occupations Code and none of the remaining information may be withheld under section 552.101 on that basis.

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<sup>2</sup>As our ruling for this information is dispositive, we need not address your argument under section 826.0211 of the Health and Safety Code against disclosure of identifying information of pet owners.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we find the city has failed to demonstrate the remaining information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code. The city must release the remaining information.

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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 481482

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)