



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 7, 2013

Mr. Ken Bost  
Director  
Brazos County Health District  
201 North Texas Avenue  
Bryan, Texas 77803

OR2013-17421

Dear Mr. Bost:

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# 501354.

The Brazos County Health Department (the "department") received two requests for documents related to a specified E. Coli outbreak and inspection records for a specified restaurant. You state you have released some information to the requestors. 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, you state the department relies upon a previous determination issued by our office in Open Records Letter No. 2010-18849 (2010) as the basis for withholding the requested information. In that ruling, we determined, in part, the Texas Department of State Health Services may withhold information subject to section 81.046 of the Health and Safety Code without the necessity of requesting a decision from this office. We note Open Records Letter No. 2010-18849 only applies to the Texas Department of State Health Services. Accordingly, Open Records Letter No. 2010-18849 does not authorize the department to withhold information subject to section 81.046 without requesting a ruling from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Thus, the department may not rely on Open Records Letter No. 2010-18849 as a basis for withholding any of 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." Gov't Code § 552.101. Section 552.101 encompasses section 81.046 of the Health and Safety Code, which provides in part:

(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). In Open Records Decision No. 577 (1990), this office concluded 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* ORD 577; Health & Safety Code § 81.046(b)-(d), (f). You indicate the information at issue in Exhibit D was gathered or created by the department during an investigation of an E. Coli outbreak. Based on your representation and our review, we agree section 81.046 governs the release of this information. It does not appear that any of the release provisions of section 81.046 are applicable in this instance. Accordingly, we find the department must withhold Exhibit D 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/bhf

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Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)