



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

April 28, 2003

Mr. Mark G. Daniel
Evans, Gandy, Daniel & Moore
115 West 2nd Street, Suite 202
Fort Worth, Texas 76102

OR2003-2816

Dear Mr. Daniel:

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# 180476.

The City of Watauga (the "City"), which you represent, received a request for the "name and full address of each resident who currently has a registered pet in the city[.]" Alternatively, the requestor seeks the "names and addresses of individuals who adopted pets from the Watauga animal control facility or humane society operated by the city . . . within the last twelve months[.]" You assert the information responsive to the primary request is excepted from disclosure under section 552.101 of the Government Code. With respect to the alternate request, you explain no such records exist as the City does not maintain an animal adoption facility.¹ We have reviewed the representative sample of information you submitted and we have considered the exception you claim.²

¹ Several provisions of the Act imply a governmental body need not prepare new information to comply with the Act; the Act applies to information already in existence. See Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to provide information that does not exist. Open Records Decision No. 362 (1983).

² 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.

Section 552.101 of the Government Code exempts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This exception encompasses information made confidential by other statutes. Section 826.0311(a) of the Health and Safety Code, in relevant part, states the following:

(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.

Health & Safety Code § 826.0311(a). Based on your arguments and a review of the representative sample of information, we agree that the requested names and addresses of dog and cat owners contained in the City’s pet registry are confidential. *See* Health & Safety Code § 826.0311(a). Therefore, the City must withhold this information from the requestor under section 826.0311(a) of the Health and Safety Code. Because section 826.0311(a) only addresses the owners of dogs and cats, the City must release the names and addresses of owners of any other animals.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free,

at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 180476

Enc: Submitted documents

c: Ms. Michelle Poblentz
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(w/o enclosures)