



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

March 4, 2004

Ms. Karmen Binka
Assistant City Attorney
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2004-1632

Dear Ms. Binka:

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# 197139.

The City of San Antonio (the "city") received a request for "the latest version of the pet registration database, [including] the pet's breed, name, date of registration, the owner's name and contact information, [and] the vet's name." You claim that the requested 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.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

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.

(b) The information may be disclosed only to a governmental entity for purposes related to the protection of public health and safety. A governmental entity 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).

You inform us that the city maintains the requested information in two formats, individual pet licenses and a list of all pet licenses contained in the registry. Section 826.0311 is not applicable to the individual pet licenses. Only a pet registry is made confidential under section 826.0311. Section 826.0311 is not applicable to documents such as the pet license submitted in Attachment II, although it may include information that also is contained in a pet registry. Thus, information contained in the pet license is not excepted from disclosure under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. *See also* Open Records Decision Nos. 649 at 3 (1996) (language of a confidentiality provision controls the scope of its protection), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public). The representative sample of information submitted in Attachment II, therefore, may not be withheld under section 552.101.

Based on your representation and our review of the representative sample of information in Attachment III, we find that section 826.0311 is applicable to the list of all pet licenses contained in the pet registry. You do not inform us that the requestor is a governmental entity or that the requestor is requesting the information for public health and safety purposes. Thus, we agree that the names, addresses, and phone numbers 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 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. The remaining submitted information must be released to the requestor.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jh

Ref: ID# 197139
Enc. Submitted documents

c: Ms. McNelly Torres
San Antonio Express-News
P.O. Box 2171
San Antonio, Texas 78297
(w/o enclosures)