ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 25, 2006

Ms. Leann D. Guzman
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Forth Worth, Texas 76102

OR2006-08044

Dear Ms. Guzman:

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# 254813.

The City of Fort Worth (the "city") received a request for the city's animal license database. You claim that 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 acknowledge that the city has not complied with the procedural requirements of section 552.301 of the Government Code in requesting this ruling. *See* Gov't Code § 552.301(e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, *no writ*) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by another source of law. *See* Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that the information is made confidential by another source of law or affects third party interests). Because the applicability of

section 552.101 can provide such a compelling reason, we will address your argument regarding this exception.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by other statutes. Section 826.0211 of the Health and Safety Code provides in pertinent part that "[i]nformation 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." Health & Safety Code § 826.0211(a) (emphasis added).[1] The only exception to this confidentiality is that the information may be disclosed "to a governmental entity for purposes related to the protection of public health and safety." *Id.* § 826.0211(b). You assert that section 826.0211 applies because "Fort Worth Animal Control complies its lists of registered animal owners from information contained in rabies vaccination certificates." Based upon this representation and our review, we agree that section 826.0211 is applicable to some of the information at issue. Accordingly, we conclude that the types of information we have marked are confidential under section 826.0211 of the Health and Safety Code, and thus must be withheld under section 552.101 of the Government Code. However, the remaining information does not constitute personally identifying information of an owner of a vaccinated animal; therefore, this 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

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[1]As amended by Act of June 18, 2005, 79th Leg., R.S., ch. 1235, § 1, 2005 Tex. Sess. Law Serv. (Vernon).

statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,

Tamara L. Harswick

Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/krl

Ref: ID# 254813

Enc. Submitted documents

c: Mr. Gary Kromer
Fort Worth Star-Telegram
400 West Seventh Street
Fort Worth, Texas 76102
(w/o enclosures)