



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 13, 2007

Ms. Rebecca Brewer  
Abernathy Roeder Boyd & Joplin P.C.  
For the City of Frisco  
P. O. Box 1210  
McKinney, Texas 75070-1210

OR2007-01841

Dear Ms. Brewer:

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# 272124.

The City of Frisco (the "city"), which you represent, received a request for a specific animal control report. 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.

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 made confidential by other statutes. Gov't Code § 552.101. 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). The submitted information consists of an animal control report. Section 826.0311 only applies to the actual pet registry; it is not applicable to the contents of other records, even though those documents may contain the same information as the pet registry. *See* Open Records Decision No. 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public). Thus, the submitted information is not confidential under section 826.0311 of the Health and Safety Code. Therefore, the city may not withhold this information under section 552.101 of the Government Code on this basis. *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).

Section 552.101 also encompasses section 826.0211 of the Health and Safety Code, which 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*). 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 section 826.0211 applies. Upon review, however, we find that you have failed to demonstrate how any portion of the submitted information is either contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates, or constitutes personally identifying information of an owner of a vaccinated animal. Accordingly, none of the submitted information may be withheld under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code.

We note, however, that the animal control report contains the Texas driver’s license number of the owner of the dog at issue.<sup>1</sup> Section 552.130 of the Government Code excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. In accordance with section 552.130 of the

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

Government Code, the city must withhold the Texas motor vehicle record information marked in the submitted document.

In summary, the city must withhold the information marked under section 552.130 of the Government Code. The remaining information must be released.

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, 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,

A handwritten signature in cursive script that reads "Jordan Johnson".

Jordan Johnson  
Assistant Attorney General  
Open Records Division

JJ/krl

Ref: ID# 272124

Enc. Submitted documents

c: Mr. Raymond Chavez  
8272 Hillside DrIVE  
Frisco, Texas 75034  
(w/o enclosures)