



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 12, 2009

Ms. Rebecca Brewer
Abernathy, Roeder, Boyd, & Joplin, P.C.
Attorney for City of Wylie
P.O. Box 1210
McKinney, Texas 75070-1210

OR2009-11224

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# 351889.

The Wylie Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. 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.

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. This section encompasses information protected by other statutes. Section 826.0311 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. The information contained in the registry may not include the social security number or the driver's license number of the owner of the registered animal.

(b) The information may be disclosed only to a governmental entity or a person that, under a contract with a governmental entity, provides animal control services or animal registration services for the governmental entity for purposes related to the protection of public health and safety. A governmental entity or person 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). 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. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure). You do not inform us that the submitted records are contained in the pet registry. Thus, we find you have failed to establish that the submitted information is confidential under section 826.0311 of the Health and Safety Code, and the department may not withhold it under section 552.101 of the Government Code on that basis.

You also seek to withhold the submitted information under section 826.0211 of the Health and Safety Code. Section 826.0211 provides in part:

(a) Information 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. The information contained in the certificate or record may not include the social security number or the driver's license number of the owner of the vaccinated animal.

Health & Safety Code § 826.0211(a). We note that section 826.0211 is applicable only to information contained in a rabies vaccination certificate or in a record compiled from information contained in one or more rabies vaccination certificates. The submitted information includes a Rabies Vaccination Certificate. Therefore, identifying information within the Rabies Vaccination Certificate, which we have marked, must be withheld under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. However, you do not inform us that any of the remaining information was compiled from information contained in rabies vaccination certificates. We therefore conclude that none of the remaining information is confidential under section 826.0211 of the Health and Safety Code and may not be withheld on that basis under section 552.101. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision

controls scope of its protection); *see also* Open Records Decision Nos. 658 at 4, 478 at 2 (1987). As you raise no other exception to disclosure, the remaining information must be released.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 351889

Enc. Submitted documents

cc: Requestor
(w/o enclosures)