ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2009

Ms. Helen Valkavich
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2009-13453

Dear Ms. Valkavich:

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# 356261 (COSA File No. 09-0833).

The City of San Antonio (the "city") received a request for several categories of information from a specified time period pertaining to horse-carriage companies licensed by the city, including veterinary reports. You state you will release some information to the requestor. You claim 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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 801.353 of the Occupations Code, which provides in part:

> (a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian's client.
>
> (b) A veterinarian may not be required to release information concerning the veterinarian's care of an animal, except on the veterinarian's receipt of:

(1) a written authorization or other form of waiver executed by the client; or

(2) an appropriate court order or subpoena.

Occ. Code § 801.353(a)-(b). This section limits a veterinarian's release of information concerning the veterinarian's care of an animal to certain circumstances. *Id.* Section 801.353 does not expressly make information confidential. A statutory confidentiality provision must be express, and a confidentiality requirement will not be implied from a statutory structure. *See* Open Records Decision No. 658 at 4 (1998); *see also* 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 the public). We therefore conclude that the submitted veterinary records are not confidential under section 801.353 of the Occupations Code and may not be withheld from the requestor on that basis under section 552.101 of the Government Code.

Next, we note some of the submitted information is excepted from disclosure under sections 552.136 and 552.137 of the Government Code.[1] Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). The city must withhold the information we have marked under section 552.136 of the Government Code.

Section 552.137 of the Government Code states that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. *Id.* § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See* Act of May 15, 2001, 77th Leg., R.S., ch. 356, § 1, 2001 Tex. Gen. Laws 651, 651–52, *amended by* Act of May 27, 2009, 81st Leg., R.S., ch. 962, § 7, 2009 Tex. Sess. Law Serv. 2555, 2557 (Vernon) (to be codified as an amendment to Gov't Code § 552.137(c)). Accordingly, the city must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the e-mail address has affirmatively consented to its disclosure.

In summary, the city must withhold the information we have marked pursuant to sections 552.136 and 552.137 of the Government Code. As you raise no further exceptions to disclosure, the remaining information must be released to the requestor.

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

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, toll free, at (888) 672-6787.

Sincerely,

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 356261

Enc. Submitted documents

cc: Requestor
(w/o enclosures)