ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2009

Ms. Mariví Gambini
City Attorney's Office
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2009-17351

Dear Ms. Gambini:

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# 363830.

The City of Irving (the "city") received a request for all city records on all dogs registered with the city on a specified block. 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, including section 826.0311 of the Health and Safety Code, which provides in relevant part:

> (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 state that the city contracts with PetData, Inc. to carry out the city's pet registration and licensing functions. You further state that the submitted information consists of a printout from the PetData database, and that PetData compiles the information obtained from a rabies vaccination certificate and consequently includes the type of information that tends to identify the owner of an animal. Based upon your representations and our review, we find that the submitted information consists of information from the city's pet registration list. We agree that section 826.0311 is applicable to the information we have marked that identifies or tends to identify the owners of registered dogs or cats. The requestor in this instance is not a governmental entity requesting the information for public health and safety purposes. Therefore, you must withhold this identifying information, which we have marked, under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code. However, you have not explained how the remaining information identifies an owner or consists of an address, telephone number, or other personally identifying information an owner of a registered dog or cat. Therefore, you have failed to demonstrate how the remaining information is confidential under section 826.0311(a), and it may not be withheld under section 552.101 on that basis.

You also raise section 552.101 in conjunction with 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.

Id. § 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. You inform us that the remaining information was compiled from information contained in a rabies vaccination certificate. However, you have not explained how the remaining information identifies an owner or consists of an address, telephone number, or other personally identifying information an owner of a vaccinated animal. Thus, we find you have failed to establish that the remaining information is confidential under section 826.0211 of the Health and Safety Code, and it may not be withheld under section 552.101 on that basis. *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 further exceptions 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, toll free, at (888) 672-6787.

Sincerely,

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/rl

Ref: ID# 363830

Enc. Submitted documents

c: Requestor
(w/o enclosures)