



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2009

Ms. Marivi Gambini
City of Irving
825 West Irving Boulevard
Irving, Texas 75060

OR2009-17703

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# 364344.

The City of Irving (the "city") received a request for information relating to pet registration records for all dogs at a specified address. 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 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. 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.

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 state the submitted information is contained in the city's registry of dogs and cats. You indicate that none of the exceptions in section 826.0311(b) apply. Thus, we agree section 826.0311 is applicable to the submitted information. We have marked information that identifies or tends to identify the owners of registered dogs or cats that is confidential under section 826.0311. The city must withhold the marked information under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code. However, none of the remaining information identifies an owner or consists of an address, telephone number, or other personally identifying information of an owner of a registered dog or cat. Therefore, no portion of the remaining information may be withheld under section 552.101 in conjunction with section 826.0311(a).

Section 552.101 of the Government Code also encompasses section 826.0211 of the Health and Safety Code, which provides in pertinent part:

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). You state the submitted information is compiled in part from information obtained from rabies vaccination certificates. Although you claim the remaining information is confidential under section 826.0211, we note that none of remaining information identifies or tends to identify an owner or consists of an address, telephone number, or other personally identifying information of an owner of a vaccinated animal. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 826.0211.

We note some of the remaining information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of materials that are subject to copyright protection unless an exception applies to the information. *Id.* If a member of the public

wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

In summary, the city must withhold the identifying information we have marked under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code. The remaining information must be released, but any copyrighted information may only be released in accordance with copyright law.

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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/eb

Ref: ID# 364344

Enc. Submitted documents

c: Requestor
(w/o enclosures)