



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2013

Ms. Monica Hernandez
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2013-01391

Dear Ms. Hernandez:

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# 476884 (COSA File No. W011064).

The City of San Antonio (the "city") received a request for information pertaining to a specified animal cruelty case, including video, e-mails, pictures, and veterinarian reports.¹ You state the city has released some information to the requestor. 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.

You acknowledge, and we agree, the city failed to comply with its ten-business-day deadline under section 552.301(b) in requesting this decision. *See* Gov't Code § 552.301(a)-(b). We note the city also failed to comply with its fifteen-business-day deadline under section 552.301(e), by failing to provide a copy of the written request for information. *See id.* § 552.301(e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released, unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166

¹As you have not submitted a copy of the written request for information, we take our description from your brief.

S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by law. Open Records Decision No. 150 (1977). Because section 552.101 of the Government Code can provide a compelling reason to withhold information from disclosure, we will consider your argument under this section.

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, such as section 801.353 of the Occupations Code. This section provides in part the following:

(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.

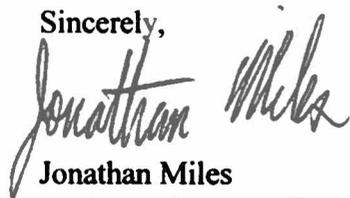
Occ. Code § 801.353(a), (b). Section 801.353 limits a veterinarian’s release of information concerning the veterinarian’s care of an animal to certain circumstances. *See id.* However, section 801.353 does not prohibit the release of information that has been provided to a governmental body. We note the submitted information was not created by city veterinary staff. Therefore, because you have not established the submitted information is confidential under section 801.353, the submitted information may not be withheld under section 552.101 on that basis. As you raise no further exceptions, the submitted 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,

A handwritten signature in cursive script that reads "Jonathan Miles".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 476884

Enc. Submitted documents

c: Requestor
(w/o enclosures)