



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2013

Ms. Rachel L. Lindsay
Counsel for the Town of Flower Mound
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2013-18660

Dear Ms. Lindsay:

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# 503576.

The Town of Flower Mound (the "town"), which you represent, received a request for animal control requests pertaining to specified individuals and addresses in a named subdivision for a specified time period. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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 826.0211 of the Health and Safety Code 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 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. Exhibit D includes rabies vaccination certificates. Therefore, the identifying information we have marked within the rabies vaccination certificates 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 the remaining information at issue was compiled from information contained in a rabies vaccination certificate. Thus, we find you have failed to establish that the remaining information is confidential under section 826.0211 of the Health and Safety Code. Therefore, the town may not withhold the remaining information at issue under section 552.101 of the Government Code 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 (1998), 478 at 2 (1987).

Section 552.101 of the Government Code also encompasses information protected by the common-law informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law enforcement authority, provided the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 at 3 (1988), 208 at 1-2 (1978). The privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 at 2 (1981) (citing 8 John H. Wigmore, *Evidence in Trials at Common Law* § 2374, at 767 (J. McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 at 2 (1990), 515 at 4-5.

You state the information in Exhibit B reveals the identities of complainants who reported possible violations of the town's code of ordinances (the "code") to the town's animal control officers and the town's police department. We understand the town's animal control officers and the town's police department are responsible for enforcing the code. You state violations of the ordinances at issue are punishable as a Class C misdemeanor. You do not indicate, nor does it appear, the subjects of the complaints know the identities of the complainants. Therefore, based on your representations and our review, we conclude the town may withhold the complainants' identifying information, which we have marked, under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. *See* Open Records Decision No. 156 (1977) (name of person who makes complaint about another individual to city's animal control division is excepted from disclosure by informer's privilege so long as information furnished discloses potential violation of state law). However, we find none of the remaining information identifies an individual for the purposes of the informer's privilege; thus, none of the remaining information may be withheld under section 552.101 on this basis.

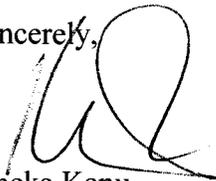
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Upon review, we find the town must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the town must withhold the information we have marked in Exhibit D under section 552.101 of the Government Code in conjunction with section 826.0211 of the Health and Safety Code. The town may withhold the information we have marked under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The town must withhold the information we have marked under section 552.130 of the Government Code. The town must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 503576

Enc. Submitted documents

c: Requestor
(w/o enclosures)