



February 5, 2015

Mr. Sam Aguirre  
Assistant City Attorney  
City of San Marcos  
630 East Hopkins Street  
San Marcos, Texas 78666

OR2015-02325

Dear Mr. Aguirre:

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# 552873.

The City of San Marcos (the "city") received a request for a list of all registered pets in the city, including names of the pets, and names of the owners and their addresses. 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 representative sample of information.<sup>1</sup>

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 made confidential by other statutes, such as section 826.0311 of the Health and Safety Code, which states in 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

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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. A governmental entity or person 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). Section 826.0311 applies only to the actual pet registry; it does not apply 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 indicate, and the submitted information reflects, the submitted information is maintained by the city as part of its pet registry, and you assert release of this information would identify or tend to identify the owner of a registered dog or cat or an address, telephone number, or other personally identifying information of the owner of a registered dog or cat. Based upon your representations and our review, we find the information we have marked identifies or tends to identify the owner of registered dogs, and is therefore subject to section 826.0311. You indicate that the exception in section 826.0311(b) does not apply in this instance. Therefore, the city must withhold the information we have marked under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code. However, we find you have failed to establish how any of the remaining information identifies or tends to identify the owner of a registered dog or cat or consists of an address, telephone number, or other personally identifying information of the owner of a registered dog or cat for purposes of section 826.0311(a). Therefore, the city may not withhold any of the remaining information under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code.

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

(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 [the Act]. 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). Upon review, we find none of the remaining information identifies or tends to identify the owner of a vaccinated animal or consists of an address, telephone number, or other personally identifying information of an owner of a vaccinated animal for purposes of section 826.0211(a). Accordingly, none of the remaining information may be withheld under section 552.101 in conjunction with section 826.0211(a) of the Health and Safety Code.

In summary, the city must withhold the information we have marked under section 552.101 in conjunction with section 826.0311(a) of the Health and Safety Code. 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/dls

Ref: ID# 552873

Enc. Submitted documents

c: Requestor  
(w/o enclosures)