



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 28, 2015

Ms. Sarah Ibrahim
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2015-27129

Dear Ms. Ibrahim:

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# 592189 (C.A. File No. 15PIA0422).

The Harris County Public Health & Environmental Services (the "county") received a request for a specified case report and information pertaining to a dog at or relating to a specified address. You state the county has released some of the requested information. 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.

We must address the county's responsibilities under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See* Gov't Code § 552.301(b). You state the county received the request for information on September 28, 2015. You note the United States Post Office was closed on October 12, 2015; however, you have not informed this office that October 12, 2015 was not a business day for the county. Thus, the county was required to request a decision from this office by October 12, 2015. However, the envelope in which the county submitted the request for a decision bears a meter-mark date of October 13, 2015. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first

class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the county has failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 of the Government Code results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *Id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). You seek to withhold the submitted information under section 552.101 of the Government Code in conjunction with the common-law informer's privilege. The purpose of the common-law informer's privilege is to protect the flow of information to a governmental body, rather than to protect a third person. Thus, unlike other claims under section 552.101, a governmental body may waive the informer's privilege. *See* Open Records Decision No. 549 at 6 (1990). Therefore, the county's assertion of the informer's privilege does not provide a compelling reason for non-disclosure under section 552.302, and the county may not withhold any portion of the submitted information under section 552.101 of the Government Code on that basis. As you raise no other exception to disclosure, 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.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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MT/sdk

Ref: ID# 592189

Enc. Submitted documents

c: Requestor
(w/o enclosures)