



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 5, 2020

Mr. Matthew Murray
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2020-06917

Dear Mr. Murray:

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# 815239 (Fort Worth PIR W094761).

The City of Fort Worth (the "city") received a request for information pertaining to a specified dog, including the owner's name and address. You claim portions of the submitted information are 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. Section 552.101 encompasses information made confidential by other statutes, such as section 826.0311 of the Health and Safety Code, which states, 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 [the Act]. 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 [the Act], 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 information in 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 state the information you have marked is maintained by the city as part of its pet registry. You state “the [c]ity maintains licensing and investigation records in one database, a software program called PetPoint.” You state the city “does not have the ability to access the personally identifying information of the owner . . . within the database without also pulling up registry information.”

Upon review, we find some of the information you have marked does not consist of information that identifies or tends to identify the owner of a registered dog or cat for purposes of section 826.0311(a). Therefore, the city may not withhold this information, which we have marked, under section 552.101 in conjunction with section 826.0311. We note some of the information you have marked is contained within a case view report. You do not state, and we are not able to determine, whether the information at issue was obtained directly from the city’s pet registry. Accordingly, we must rule conditionally. The exceptions found in section 826.0311(b) of do not appear to apply. Thus, if the information at issue was obtained directly from the city’s pet registry, with the exception of the information we have marked, the city must withhold the information you have marked under section 552.101 in conjunction with section 826.0311(a). However, if the information was not obtained directly from the city’s pet registry, then the information is not confidential under section 826.0311(a), and the city may not withhold it under section 552.101 on that basis.

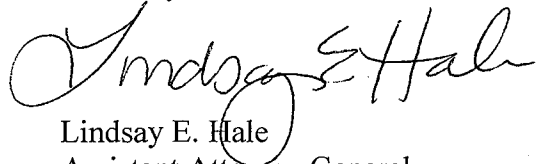
Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The Third Court of Appeals has concluded public citizens’ dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). If the date of birth we have marked pertains to an individual whose identifying information is not confidential under section 826.0311 of the Health and Safety Code, the city must withhold the date of birth we have marked under section 552.101 in conjunction with common-law privacy.

In summary, to the extent the information at issue was obtained directly from the city's pet registry, with the exception of the information we have marked, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code. If the date of birth pertains to an individual whose identifying information is not confidential under section 826.0311 of the Health and Safety Code, the city must withhold the date of birth we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/be

Ref: ID# 815239

Enc. Submitted documents

c: Requestor
(w/o enclosures)