



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 6, 2020

Mr. Christopher K. Austria
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2020-12798

Dear Mr. Austria:

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# 826310 (ORR# W098059, W098438, W099036).

The City of Fort Worth (the "city") received three requests for information pertaining to a specified incident. The city states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 exception encompasses section 826.0211(a) of the Health and Safety Code, which reads as follows:

- (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). 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. Upon review, we find section 826.0211 is applicable to some of the information at issue, which we have marked. Therefore, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0211(a) of the Health and Safety Code.¹

Section 552.101 of the Government Code also encompasses section 826.0311 of the Health and Safety Code, which states, in part, the following:

(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).

The city states the remaining information it has marked is maintained by the city as part of its pet registry. We note the information that the city has marked is contained in an investigation report. The city does 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 the Health and Safety Code do not appear to apply. Thus, if the information at issue was obtained directly

¹ As our ruling is dispositive, we do not address the arguments of the city to withhold this information.

from the city's pet registry, then the city must withhold the remaining information it has marked under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code. However, if the information was not obtained directly from the city's pet registry, then this information is not confidential under section 826.0311(a) and the city may not withhold it under section 552.101 on that basis.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 826.0211(a) of the Health and Safety Code. The city must withhold the remaining information it has marked under section 552.101 of the Government Code in conjunction with section 826.0311(a) of the Health and Safety Code if this information was obtained directly from the city's pet registry. 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 826310

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)