



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2020

Ms. Courtney Kelly
Records & Information Management Coordinator
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2020-18296

Dear Ms. Kelly:

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# 836751 (COR File No. R000476-051120).

The City of Richardson (the "city") received a request for information pertaining to a specified dog. The city claims the submitted information is excepted from disclosure under section 552.101 and 552.1177 of the Government Code. We have considered the exceptions the city claims 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 of the Government Code encompasses information protected by other statutes, including 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 826.0311 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 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). Upon review, we find the city has failed to demonstrate any portion of the submitted information consists of the city's actual pet registry. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 826.0311 of the Health and Safety Code.

Section 552.1177(a) of the Government Code relates to the humane disposition by a municipality or county of an animal and provides the following:

Except as provided by Subsection (b), information is confidential and excepted from [required public disclosure] if the information relates to the name, address, telephone number, e-mail address, driver's license number, social security number, or other personally identifying information of a person who obtains ownership or control of an animal from a municipality or county making a humane disposition of the animal under a municipal ordinance or an order of the commissioners court.

Gov't Code § 552.1177(a). The city represents its municipal animal shelter made a humane disposition of the animal at issue under a municipal ordinance. However, upon review of the submitted information and the city's arguments, we are unable to determine if the individual at issue adopted the animal from the city's municipal animal shelter. Accordingly, if the individual at issue adopted the animal from the city's municipal animal shelter, then the city must withhold the information we marked under section 552.1177 of the Government Code. If the individual at issue did not adopt the animal from the city's municipal animal shelter, then the city may not withhold the information at issue under section 552.1177. In either event, the remaining information is not confidential under section 552.1177, and the city may not withhold it on that ground.

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.). Thus, the city must withhold the date of birth we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

We note some of the information at issue is subject to section 552.130 of the Government Code.¹ Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the city must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, if the individual at issue adopted the animal from the city's municipal animal shelter, then the city must withhold the information we marked under section 552.1177 of the Government Code. If the individual at issue did not adopt the animal from the city's municipal animal shelter, then the city must withhold the date of birth we marked under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information we marked under section 552.130. In either event, 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,

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/be

Ref: ID# 836751

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).