



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 27, 2009

Mr. Dewey Helmcamp, III
Executive Director
Texas State Board of Veterinary Medical Examiners
333 Guadalupe, Suite 3-810
Austin, Texas 78701-3942

OR2009-05467

Dear Mr. Helmcamp:

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# 340886.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for information related to the requestor's complaint. You claim that 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.

Initially, we must address the board's obligations under section 552.301 of the Government Code, which 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), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. The board received the request for information on February 2, 2009. Accordingly, the ten-business-day deadline was February 17, 2009. We received the board's request for a ruling through interagency mail, however, on February 19, 2009. We find that the board has provided no evidence that its request for ruling was deposited in interagency mail within the ten business-day deadline. *See* Gov't Code § 552.308(b) (state agency can meet the ten-day requirement if the request is sent by interagency mail and the agency provides evidence sufficient to establish that the request was deposited in interagency mail within that period). Consequently, we find that the board failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption

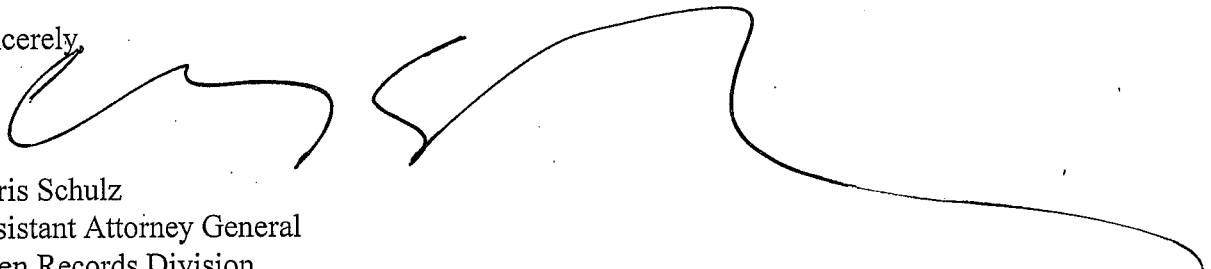
that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Because your claim under section 552.101 of the Government Code can provide a compelling reason for non-disclosure, we will consider your argument under this exception.

Section 552.101 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 that another statute makes confidential. You claim that the submitted information is confidential under section 801.207 of the Occupations Code. Section 801.207(b) provides that “[a]n investigation record of the board, including a record relating to a complaint that is found to be groundless, is confidential.” Occ. Code § 801.207(b); *see also* 22 T.A.C. § 575.27 (complaints - receipt, investigation and disposition). You state that the submitted information relates to a complaint filed with the board and its subsequent investigation. Based on your representation and our review, we conclude that the submitted information is confidential under section 801.207 of the Occupations Code and must be withheld from disclosure under section 552.101 of the Government Code.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'CS', with a long horizontal flourish extending to the right.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/eeg

Ref: ID# 340886

Enc. Submitted documents

cc: Requestor
(w/o enclosures)