



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 26, 2008

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

OR2008-13249

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#323444.

The Texas Board of Veterinary Medical Examiners (the "board") received a request for the names and addresses of individuals to whom the board mailed specific notices during January 1, 2006 to July 6, 2008. 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 procedural obligations under the Act. Pursuant to section 552.301(b), a governmental body that receives a request for information that it wishes to withhold must ask for the attorney general's decision and state the exceptions that apply not later than the tenth business day after receiving the request. Gov't Code § 552.301(a), (b). You state the board received the request for information on July 10, 2008. However, you did not request a ruling from this office until July 25, 2008. Consequently, you failed to comply with the procedural requirements of section 552.301 in requesting this decision.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the requested information is public. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information from disclosure. *See Hancock*

*v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing that the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). Because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will address your argument under this section.

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 assert that the requested 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 pursuant to the board’s procedures, an “investigation file is opened up on receipt of a complaint[.]” You indicate that the submitted information is maintained within the board’s investigation files. 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 pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/jb

Ref: ID#323444

Enc. Submitted documents

c: Mr. James Hardie  
12015 Highway 84 West  
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(w/o enclosures)