



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

June 24, 1976

The Honorable Donald C. Klein
Executive Director
Texas State Board of Registration
for Professional Engineers
Room 208, 1400 Congress Avenue
Austin, Texas 78701

Open Records Decision No. 135

Re: Access to investiga-
tive file on individual
compiled by State Board
of Registration for
Professional Engineers.

Dear Mr. Klein:

Pursuant to section 7 of article 6252-17a, V.T.C.S., the Open Records Act, you request our decision as to whether an investigatory file on an individual is excepted from required public disclosure under the exceptions contained in sections 3(a)(1), 3(a)(3), 3(a)(8), or 3(a)(11) of the Act.

You received a request from an attorney for "all records, memorandum, files, and reports that you have concerning" his client. You advise that the individual is the subject of an investigation concerning activities which may constitute violations of the Texas Engineering Practice Act, article 3271a, V.T.C.S.

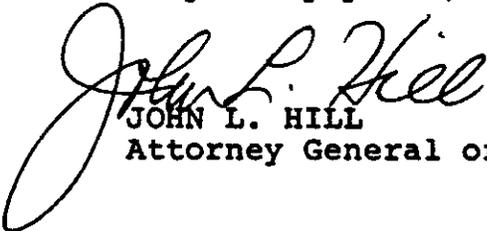
The individual is not a registered professional engineer registered with the State Board. The Engineering Practice Act authorizes the Board to enforce the provisions of the Act through an action to enjoin violation of its provisions (section 8), and "is charged with the duty of aiding in the enforcement of the provisions of this Act . . . and may present to a prosecuting officer complaints relating to violations. . . ." V.T.C.S. art. 3271a, § 23. Section 23 provides criminal penalties of a fine of not less than \$100 nor more than \$500, confinement in jail for not more than three months or both, for a violation of the Act.

With specified exceptions, the Act prohibits unlicensed persons from practicing engineering, advertising or holding one's self out as an engineer, and from using the term "engineer" or variations of that term. V.T.C.S. art. 3271a, §§ 1.2, 18.

The Assistant Attorney General responsible for advising the State Board and handling litigation on their behalf advises that there is in fact a reasonable anticipation of litigation of a criminal or civil nature to which the State may be a party in regard to this matter, and that public disclosure of the investigative file requested could adversely affect the interest of the State in the successful prosecution of an action to enforce the Texas Engineering Practice Act in this instance. We have examined the investigative file and it is our view that this determination is amply supported by that document. Therefore, it is our determination that the information requested may be withheld from public inspection pursuant to the exception contained in section 3(a)(3) of the Open Records Act.

In view of this determination, it is unnecessary to determine whether the information, or some part of it, is within any of the other exceptions cited.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

jwb