



May 14, 1999

Mr. John R. Speed
Executive Director
Texas Board of Professional Engineers
P.O. Drawer 18329
Austin, Texas 78760-8329

OR99-1329

Dear Mr. Speed:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126003.

The Texas Board of Professional Engineers (the "board") received a request for the names and addresses of those individuals whom the board sent, during the month of April, 1999, initial written notifications of the board's intent to impose disciplinary action. You seek to withhold the requested information under section 552.101 of the Government Code in conjunction with section 22A of article 3271a, V.T.C.S.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute. Section 22A of article 3271a provides as follows:

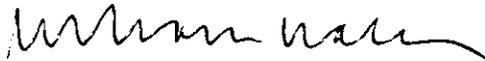
- (a) the Board shall keep an information file about each complaint filed with the Board relating to a license holder.
- (b) If a written complaint is filed with the board relating to a license holder, the Board, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.
- (c) The Board shall adopt rules that permit the Board to receive and investigate confidential complaints against license holders or any other person who may have violated this Act. The Board shall maintain the confidentiality of the complaint during the investigation of the complaint.

Rules adopted by the board pursuant to section 22A(c) of article 3271a are found in section 131.171(d) of title 22 of the Texas Administrative Code. Those rules provide that the "[t]he investigation phase of the complaint shall be considered complete for the purposes of maintaining confidentiality when formal charges have been filed."

We understand you to represent that formal charges have not yet been filed against the individuals whose names and addresses are sought by the requestor and also that those individuals' alleged violations of article 3271a or board rules adopted thereunder were complained of to the board after September 1, 1997. *See* Acts 1997, 75th Leg., ch. 344, § 29 (changes made by act, including added section 22A(c), apply to violations reported on or after effective date of act, September 1, 1997). Based on these representations, we conclude that requested information must be withheld under section 22A of article 3271a. *See* this office's earlier rulings, under article 3271a, on requests to the board for complaint information: Open Records Letter Nos. OR98-2324 (1998), OR98-1658 (1998).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref.: ID# 126003

cc: Mr. Richard E. Wootton
Attorney at Law
P.O. Box 2706
Austin, Texas 78768-2706