



March 24, 2000

Ms. Maureen E. Ray  
Assistant Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711-2487

OR2000-1153

Dear Ms. Ray:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133566.

The State Bar of Texas (the "State Bar") received a request for "all documents not previously provided in discovery in Cause No. 99-00-09180-CV . . ." which relate to a grievance filed against the requestor. You have submitted as Exhibit 3 a representative sample of information which you assert is excepted from public disclosure under section 552.101 of the Government Code in conjunction with rule 15.10 of the Texas Rules of Disciplinary Procedure.<sup>1</sup> You additionally contend that the information is excepted from disclosure pursuant to sections 552.103, 552.107(2), and 552.111 of the Government Code.<sup>2</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 81.033(a) of the Government Code provides

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

<sup>2</sup>Part II of the Rules of Disciplinary Procedure, including Rule 2.09 and Rule 2.16, requires certain notices and records to be provided to the Respondent. The exceptions you raise do not protect from disclosure to this requestor documents that the Rules of the Disciplinary Procedure require to be released to him.

All records of the state bar, except for records pertaining to grievances that are confidential under the Texas Rules of Disciplinary Procedure, and records pertaining to the Texas Board of Legal Specialization, are subject to Chapter 552.

Rule 15.10 of the Texas Rules of Disciplinary Procedure provides

All communications, written and oral, and all other materials and statements to or from the Commission, Chief Disciplinary Counsel, the Complainant, the Respondent, and others directly involved in the filing, screening, investigation, and disposition of Inquiries and Complaints are absolutely privileged.

Tex. R. Disciplinary P. 15.10, *reprinted in* Gov't Code Ann., tit. 2, subtit. G app. A-1. We have reviewed the information at issue and agree that it is privileged under rule 15.10. The term "absolutely privileged" in rule 15.10 is synonymous with the term "confidential" in section 81.033. *See, e.g.,* Attorney General Opinion JM-1235 (1990), Open Records Decision Nos. 384 (1983), 375 (1983). Therefore, the information in Exhibit 3 is confidential under the Rule 15.10 and is therefore not subject to disclosure under the Public Information Act. Gov't Code § 81.033.

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 appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal 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, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ch

Ref: ID# 133566

Encl. Submitted documents

cc: Mr. Sam McCants  
6575 West Highway 31  
Corsicana, Texas 75110  
(w/o enclosures)