



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 24, 2006

Ms. Mitzi Chafetz  
Public Information Officer  
Texas Funeral Service Commission  
P.O. Box 12217  
Austin, Texas 78711

OR2006-09829

Dear Ms. Chavetz:

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# 257911.

The Texas Funeral Service Commission (the "commission") received a request for information concerning complaints made against a particular funeral home. You indicate that the commission will release some of the requested information. You claim that other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.<sup>1</sup>

Section 552.101 of the Government Code excepts from public 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 other statutes make confidential. You raise section 552.101 in conjunction with section 651.203 of the Occupations Code. Section 651.203(b) provides that "[i]nformation in a [complaint file], other than information relating to a complaint that has not reached a final disposition, is

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<sup>1</sup>This letter ruling assumes that the submitted representative copies of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the commission to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

public information.” Occ. Code § 651.203(b). We conclude that this language makes confidential information relating to a complaint that has not reached a final disposition. You state that the submitted information relates to a complaint that is currently under investigation. Based on your representation and our review of the information at issue, we agree that the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 651.203(b) of the Occupations 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 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).

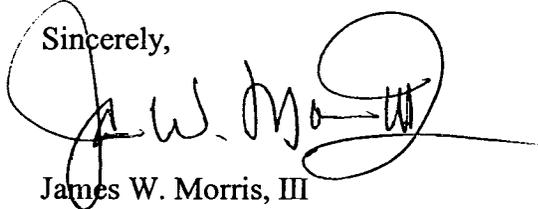
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 appeal 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,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III'. The signature is written in a cursive style with a large, looping initial 'J' and a long horizontal stroke at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 257911

Enc: Submitted documents

c: Mr. Paul M. Boyd  
Boyd & Brown, P.C.  
1215 Pruitt Place  
Tyler, Texas 75703  
(w/o enclosures)