



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2007

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

OR2007-14239

Dear Ms. Chafetz:

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# 293203.

The Texas Funeral Services Commission (the "commission") received a request for information regarding complaint number #2007173.¹ You claim that the requested 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.

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 public information." Occ. Code § 651.203(b). We conclude that this language makes

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole that the commission seeks to withhold. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and does not authorize the withholding of any other requested records containing substantially different types of information than that submitted to this office.

confidential information relating to a complaint that has not reached a final disposition. You indicate that the submitted information relates to a complaint that remains under investigation. Based on your representations 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).

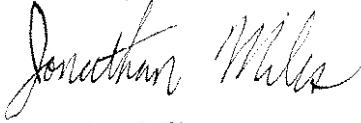
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jh

Ref: ID# 293203

Enc. Submitted documents

c: Mr. Jim Bates
Funeral Consumers Alliance of North Texas
6524 Brookdale Drive
Watauga, Texas 76148
(w/o enclosures)