



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 17, 2012

Ms. Maureen E. Ray
Special Administrative Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

OR2012-00753

Dear Ms. Ray:

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# 442651.

The State Bar of Texas (the "state bar") received a request for correspondence or documents between the state bar and specified companies and individuals. You contend that the submitted information is not subject to the Act. In the alternative, you claim that the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.103 of the Government Code. We have considered your claims and reviewed the submitted representative sample of information.¹

We first consider your argument that the submitted information is not subject to the Act. Section 81.033(a) of the Government Code provides that:

[a]ll 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 [of the Government Code].

¹We 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.

Gov't Code § 81.033(a). You also assert that the information at issue is confidential and privileged under rule 2.16(A) of the Texas Rules of Disciplinary Procedure.² Rule 2.16 pertains to the confidentiality of disciplinary proceedings and associated records and provides that “[a]ll members and staff of the Office of Chief Disciplinary Counsel, board of Disciplinary Appeals[,] Committees, and Commission shall maintain as confidential all Disciplinary Proceedings and associated records,” except by court order or as otherwise provided in rule 2.16. TEX. R. DISCIPLINARY P. 2.16(A), reprinted in Gov't Code tit. 2, subtit. G, App. A-1. Thus, you argue that, pursuant to section 81.033(a), the submitted information is not subject to the Act. You inform us that the submitted information pertains to a grievance investigation and pending disciplinary proceeding against an attorney. Based on your representations and our review, we agree that the submitted information is confidential under rule 2.16(A). We therefore conclude that, pursuant to section 81.033(a) of the Government Code, the submitted information is not subject to the Act and need not be released to the requestor.³

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

²We note that the rules of the state bar have the same effect as statutes. See *Board of Law Exam'rs v. Stevens*, 868 S.W.2d 773 (Tex. 1994); see also *State Bar v. Wolfe*, 801 S.W.2d 202, 203 (Tex. App.—Houston [1st Dist.] 1990, no writ); *State Bar v. Edwards*, 646 S.W.2d 543, 544 (Tex. App.—Houston [1st Dist.] 1982, writ ref'd n.r.e.).

³Because we dispose of this issue under section 81.033(a), we do not address your claims under the Act.

Ref: ID# 442651

Enc. Submitted documents

c: Requestor
(w/o enclosures)