



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2012

Ms. Kathy Sparks
Legal Assistant
Public Information Officer
Texas Funeral Service Commission
P.O. Box 12217 Capitol Station
Austin, Texas 78711

OR2012-19774

Dear Ms. Sparks:

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# 474847.

The Texas Funeral Service Commission (the "commission") received a request for records of complaints regarding a specified funeral home from a specific time period.¹ You state some of the requested information is being released. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

We first note some of the submitted information is not responsive to the present request for information, as clarified by the requestor. The Act does not require a governmental body to release information that did not exist when it received a request or create responsive information.² Thus, the submitted information that did not exist when the commission received the present request is not responsive to the request. Additionally, you inform us the requestor only seeks access to complaint summaries and the commission's final resolution

¹You inform us the commission sought and received clarification of the request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

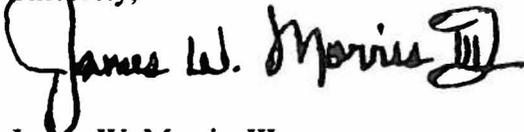
of the complaints. Thus, to the extent the submitted information does not consist of those types of records, it is not responsive to the present request. This decision does not address the public availability of any such non-responsive information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information made confidential by other statutes. You claim section 552.101 in conjunction with section 651.203 of the Occupations Code, which provides in part 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 this language makes information related to a complaint that has not reached a final disposition confidential. You state the submitted responsive information is related to a complaint that has not reached a final disposition. Based on your representation and our review, we conclude the commission must withhold the responsive 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 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,



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

JWM/bhf

Ref: ID# 474847

Enc: Submitted documents

c: Requestor
(w/o enclosures)