



August 25, 1999

Ms. Pamela S. Bacon
Public Information Administrator
The University of Texas System
601 Colorado Street
Austin, Texas 78701-2982

OR99-2388

Dear Ms. Bacon:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 126086.

The University of Texas System (the "university") received the following request for information directed to Ray Farabee:

- (1) again, all purported means by which you allege to have "advised of [OR98-2631] availability"
- (2) a copy of each correspondence in #1 with proper PIR billing form attached
- (3) everything else, re: you communications with e.d., State Bar (you waived any privilege, if one even existed to begin with), David Escamilla, David Donaldson and anyone else.

You assert that any communications between Mr. Farabee and the State Bar of Texas are from his personal files and are not subject to disclosure under the Act. Alternatively, you contend that any such communications are confidential under section 552.101 of the Government Code. As for the remaining portions of the request, you state: "Please note that the request could be broadly construed to mean any and all communications to or from Mr. Farabee, Vice Chancellor and General Counsel for The University of Texas System, with anyone at any time regarding any matter." You have, therefore, asked the requestor to clarify his request.

First, you contend that the correspondence between Mr. Farabee and the State Bar is not “public information” subject to disclosure under the Act. You state that this information is kept in Mr. Farabee’s personal files and is not collected, assembled, or maintained under a law or ordinance or in conjunction with any official business of a governmental body. “Public information” is defined as information that is collected, assembled, or maintained under a law, ordinance, or in connection with the transaction of official business (1) by a governmental body or (2) for a governmental body and the governmental body owns the information or has a right of access to it. Gov’t Code § 552.002. In this case, however, we need not determine whether the correspondence between Mr. Farabee and the State Bar is “public information,” because even assuming the documents are “public information,” they must be withheld from disclosure as discussed below.

Section 552.101 of the Government Code provides an exception to disclosure for information made confidential by other law. 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 other directly involved in the filing, screening, investigation, and disposition of Inquiries and Complaints are absolutely privileged.

We agree that the correspondence between Mr. Farabee and the State Bar is confidential under Rule 15.10 and, thus, excepted from disclosure under section 552.101.

Finally, we address your argument that the university is unable to determine which records are responsive to the request until the requestor explains what types of records he is seeking and provides a time frame for the records. Section 552.222 (b) provides:

If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which such information will be used.

In Open Records Decision No. 23 at 1-2 (1974), this office stated that a request “must sufficiently identify the information requested and an agency may ask for a clarification if it cannot reasonably understand a particular request.” *See also* Open Records Decision No. 304 (1982) (governmental body sought clarification as to particular documents sought when requestor asked for all documents relating to issue). Based upon your assertion that the university construes the request to encompass all correspondence to or from Mr. Farabee

for an unspecified amount of time, we believe it is appropriate that the university clarify with the requestor the meaning and scope of his request and whether he seeks a more limited amount of material.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 126086

Encl. Submitted documents

cc: Mr. Stephen N. Lisson
Initiate!!
P.O. Box 2013
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(w/o enclosures)