



September 29, 1999

Ms. Maureen E. Ray
Assistant General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

OR99-2757

Dear Ms. Ray:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127672.

The State Bar of Texas (the "bar") received a request for information related to cause H0059612655. You indicate that you have released information responsive to this request but withheld certain other responsive information which you contend is excepted from disclosure under sections 552.101, 552.107(1) and 552.111 of the Government Code. You have submitted a representative sample of the information you seek to withhold.¹ We have considered your argument and reviewed the submitted information.

To determine the application of the Public Information Act to the subject information we first look to the relevant statutes and rules. Section 81.033(a) of the Government Code provides (emphasis added):

All 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.

Rule 15.10 of the Texas Rules of Disciplinary Procedure provides:

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.

All communications, written and oral, and all other materials and statements to or from the Commission, Chief Disciplinary Counsel, the Complainant, the Respondent, and others directly involved in the filing, screening, investigation, and disposition of Inquiries and Complaints are absolutely privileged.

This office has held that the term “absolutely privileged” in rule 15.10 is synonymous with the term “confidential” in section 81.033. *See, e.g.*, Attorney General Opinion JM-1235 (1990), Open Records Decision Nos. 384 (1983), 375 (1983).

Next we look to Rule 2.15 of the Texas Rules of Disciplinary Procedure, which provides in pertinent part (emphasis added):

All information, proceedings, hearing transcripts, statements, and any other information coming to the attention of the investigatory panel of the Committee must remain confidential and may not be disclosed to any person or entity (except the Chief Disciplinary Counsel) unless disclosure is ordered by the court. **If there is a finding of Just Cause and any Sanction other than a private reprimand (which may include restitution and payment of Attorneys’ Fees) imposed by agreement of the Respondent, all of the information, proceedings, hearing transcripts, documents, statements, and other information coming to the attention of the investigatory panel shall be, upon proper request, made public.**

Tex. R. Disciplinary P. 2.15.

The requested information relates to a grievance which resulted in an Agreed Judgment of Public Reprimand. From your explanation of the grievance process, we assume that a finding of “just cause” preceded that action and that the requested information came to the attention of the investigatory panel. If these assumptions are correct, the information is expressly made public by Rule 2.15 of the Texas Rules of Disciplinary Procedure. The State Bar rules have the same effect as statutes. *Board of Law Examiners v. Stevens*, 868 S.W.2d 773 (Tex. 1994); *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.). The exceptions to disclosure in the Public Information Act generally do not apply to information made public by other statutes. Open Records Decision No. 525 (1989). Thus, if our assumptions are correct, the information may not be withheld under an exception to the Public Information Act and must therefore be released. Otherwise, the information is confidential under Rule 15.10 and is not subject to public disclosure under the Act.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 127672

Encl. Submitted documents

cc: Mr. Steven L. Lee
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(w/o enclosures)