



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 24, 2005

Ms. Julia Vaughan  
Executive Director  
Board of Law Examiners  
P.O. Box 13486  
Austin, Texas 78711-3486

OR2005-01645

Dear Ms. Vaughan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 219191.

The Board of Law Examiners (the "BLE") received a request for seven categories of information, including statistical data. You state that the BLE has provided some of the requested information to the requestor. However, you claim that the requested statistical data is not subject to the Public Information Act (the "Act"), and in the alternative, is excepted from public disclosure under the Act pursuant to section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

In Open Records Letter No. 92-267 (1992), this office addressed whether bar exam scores held by the BLE are subject to the Act. In that ruling, we noted that section 82.003 of the Government Code generally provides that the BLE is subject to the Act. However, we also noted that section 82.003(b) provides that "[e]xamination questions that may be used in the future and examinations other than the one taken by the person requesting it are exempt from disclosure." Gov't Code § 82.003(b). In an order issued on July 7, 1987, the Texas Supreme

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<sup>1</sup> We assume 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 those records contain substantially different types of information than that submitted to this office.

Court clarified section 82.003 by exempting from disclosure under the Act “[g]rades and examination results of any person.”<sup>2</sup> *Order of the Supreme Court of Texas* (Tex. July 7, 1987) (on file with the Open Records Division of the Office of the Attorney General). Therefore, in Open Records Letter No. 92-267 (1992), this office held that any information coming under section 82.003(b) or the exemptions listed in the Supreme Court’s July 7, 1987 order was not subject to the Act and the BLE need not seek a ruling from this office regarding whether it must release such information. Nevertheless, we went on to find that the bar examination results requested in that request were exempt from disclosure under section 82.003(b) of the Government Code and could be withheld from the requestor. We further found that the BLE could withhold bar examination results from future requestors without seeking a ruling from this office.

You indicate, and the documents reflect, that the submitted information consists of bar examination results, including the raw and scaled scores of all applicants and for all sections of the July 2004 bar examination. Upon review of your assertions and the submitted information, we agree that this information is subject to section 82.003(b) of the Government Code and the July 7, 1987 order of the Supreme Court. Therefore, the submitted information is not subject to the Act, and need not be released to the requestor. Based on this finding, we need not reach your argument under section 552.101 of the Government 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

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<sup>2</sup> An applicant may request his or her own grades under the supreme court’s order, but the grades may be withheld pending the resolution of an investigation into the applicant’s moral character and fitness.

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); *Tex. 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 Texas Building and Procurement Commission 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Debbie K. Lee  
Assistant Attorney General  
Open Records Division

DKL/sdk

Ref: ID# 219191

Enc. Submitted documents

c: Mr. Kevin R. Michaels  
Attorney at Law  
11767 Katy Freeway, Suite 730  
Houston, Texas 77079  
(w/o enclosures)