



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 3, 2009

Mr. J. Randel Hill
General Counsel
Texas State Board of Public Accountancy
333 Guadalupe, Tower III, Suite 900
Austin, Texas 78701-3900

OR2009-01381

Dear Mr. Hill:

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# 335000.

The Texas State Board of Public Accountancy (the "board") received a request for information concerning the requestor's complaint against a specific certified public accountant. You claim that 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 submitted 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. Section 552.101 encompasses information made confidential by other statutes. Section 901.160 of the Occupations Code provides as follows:

- (a) The board shall make available at the board's offices in Austin any file maintained or information gathered or received by the board from a third party regarding a license applicant or current or former license holder for inspection by the applicant or license holder during normal business hours.
- (b) A license applicant or current or former license holder may authorize the board in writing to make available for inspection by a designated person or by the public any information gathered or received by the board from a third party regarding the applicant or license holder.
- (c) Except on written authorization as provided by Subsection (b), the following information gathered or received by the board is confidential and not subject to disclosure under Chapter 552, Government Code:

(1) information regarding the qualifications of an applicant or license holder to be certified as a certified public accountant;

(2) information regarding the qualifications of an applicant or firm license holder to be issued a firm license as a certified public accountancy firm; and

(3) information regarding a disciplinary action under Subchapter K against a license holder or an applicant to take the uniform CPA examination, before a public hearing on the matter.

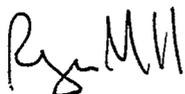
(d) A final order of the board relating to a disciplinary action against a license holder, including a reprimand, that results from an informal proceeding or a formal public hearing is subject to disclosure to the public and is available on request.

Occ. Code § 901.160. You state that the submitted information was collected as part of a preliminary investigation to determine if a formal investigation against the involved license holder was warranted. You also state that, upon review of the information at issue, the board decided to not proceed with a formal investigation. Because it does not appear that the exception to confidentiality in section 901.160(b) applies, we agree that the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 901.160(c) 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 at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 335000

Enc. Submitted documents

cc: Requestor
(w/o enclosures)