



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 1, 2017

Ms. Claire Mock  
Public Affairs Counsel  
Office of the Chief Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711-2487

OR2017-12033

Dear Ms. Mock:

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# 660107.

The State Bar of Texas (the "state bar") received a request for all communications pertaining to a specified case. You claim the submitted information is not subject to the Act. Alternatively, you claim that the requested information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code, as well as Rules 2.16 and 6.08 of the Texas Disciplinary Rules of Procedure. We have considered your arguments.

We address your contention that the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:

- (A) owns the information;
  - (B) has a right of access to the information; or
  - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.*; *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Information is subject to the Act even if a governmental body does not physically possess it as long as it is written, produced, collected, assembled, or maintained for the governmental body and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). Moreover, section 552.001 of the Act provides that it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See* Gov't Code § 552.001(a).

You contend the requested information consists of records that are held by the Chief Disciplinary Counsel on behalf of the Commission for Lawyer Discipline ("CFLD"), and thus, pursuant to rule 4.09 of the Texas Rules of Disciplinary Procedure, the requested information is not subject to the Act. Rule 4.09 of the Texas Rules of Disciplinary Procedure provides as follows:

The [CFLD] is not a "governmental body" as that term is defined in Section 551.001(3) of V.T.C.A., Government Code, and is not subject to either the provisions of the Open Meetings Act or the Open Records Act.

TEX. R. DISCIPLINARY P. 4.09. We agree the CFLD is not subject to the Act. Therefore, pursuant to rule 4.09 of the Texas Rules of Disciplinary Procedure, we conclude the requested information is not subject to the Act and need not be released in response to this request. Accordingly, we need not address your remaining arguments against disclosure.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'SMP', is written over the word 'Sincerely,'.

Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/tdw

Ref: ID# 660107

c: Requestor