



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 21, 2019

Ms. Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board
P.O. Box 12188
Austin, Texas 78711-2188

OR2019-13491

Dear Ms. Worman:

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# 766696 (TALCB ID#s 20190308.1 & 20190320.5).

The Texas Appraiser Licensing and Certification Board (the "board") received two requests from different requestors for information pertaining to a specified investigation file. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.111 of the Government Code and privileged under rule 503 of the Texas Rules of Evidence and rule 192.5 of the Texas Rules of Civil Procedure. We have considered the submitted arguments 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. This exception encompasses information made confidential by other statutes, such as section 1103.460 of the Occupations Code. Section 1103.460 provides in part:

- (a) Information or material, including any investigation file, is confidential and not subject to disclosure under Chapter 552, Government Code, or any other means of legal compulsion for release, including disclosure, discovery, or subpoena, if the information or material is prepared or compiled by the

board in connection with a complaint, investigation, or audit of any person subject to the jurisdiction of the board.

(b) Notwithstanding Subsection (a), information or material prepared or compiled by the board in connection with a complaint, investigation, or audit may be disclosed:

(1) to the respondent;

(2) to a person providing a service to the board, including a peer investigative committee appointed under Section 1103.453, an expert or other witness, or an investigator, if the information is necessary for preparation for, or a presentation in, a disciplinary proceeding against an applicant or license holder, or a subsequent trial or appeal taken from a disciplinary proceeding;

(3) to an entity in another jurisdiction that licenses, registers, credentials, or disciplines any person subject to the jurisdiction of the board;

(4) to a law enforcement agency;

(5) to the State Office of Administrative Hearings; or

(6) to the board, or a panel of the board, for use during any proceeding conducted by the State Office of Administrative Hearings or in a subsequent trial or appeal of a board action or order.

...

(e) Notwithstanding Subsection (a), on the dismissal or final resolution of a complaint, investigation, or audit, information or material prepared or compiled by the board in connection with the complaint, investigation, or audit, including a completed audit report or a final order of the board, is subject to disclosure under Chapter 321 or 552, Government Code.

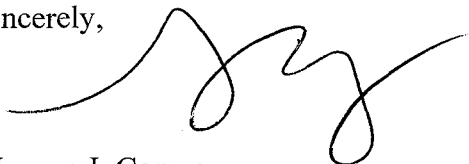
Occ. Code § 1103.460(a), (b), (e). You state the submitted information was prepared or compiled in connection with the specified investigation. You indicate the person under investigation is a real estate appraiser who is subject to the board's jurisdiction under chapter 1103 of the Occupations Code. *See id.* § 1103.201 (stating a person performing an appraisal of real estate must hold required certificate or license). You further state, the board's investigation in this matter remains ongoing, and the board has neither dismissed this complaint, nor entered a final order in this matter. Therefore, we note the information is not

subject to disclosure under the Act pursuant to subsection 1103.460(e). *See id.* § 1103.460(e). There is no indication the requestors have a right of access to the information under subsection 1103.460(b) of the Occupations Code. *See id.* § 1103.460(b). Based on your representations and our review, we conclude the submitted information is confidential under section 1103.460(a) of the Occupations Code, and the board must withhold it under section 552.101 of the Government Code on that basis.¹

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, 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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/eb

Ref: ID# 766696

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.