



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 21, 2019

Mr. Kyle E. Smith
Staff Attorney
Texas Funeral Service Commission
P.O. Box 12217
Austin, Texas 78711

OR2019-13513

Dear Mr. Smith:

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# 764022.

The Texas Funeral Service Commission (the "commission") received a request for all information received from complainants pertaining to a specified complaint. You claim 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it either does not pertain to the requested information or was created after the date the commission received the instant request for information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983). This ruling does not address the public availability of any information that is not responsive to the request and the commission is not required to release such information in response to this request.

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. The commission claims section 552.101 in conjunction with section 651.203 of the Occupations Code, which provides in part that “[i]nformation in a [complaint file], other than information relating to a complaint that has not reached a final disposition, is public information.” Occ. Code § 651.203(b). We conclude this language makes information related to a complaint that has not reached a final disposition confidential. The commission represents the submitted responsive information is related to a complaint that has not reached a final disposition. Based on this representation and our review, we conclude the commission must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 651.203(b) of the Occupations Code. The commission must release the remaining responsive information.

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,



Lecelle Clarke
Attorney
Open Records Division

LC/eb

Ref: ID# 764022

Enc. Submitted documents

c: Requestor
(w/o enclosures)