



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 20, 2022

Ms. Vanessa Burgess  
General Counsel  
Texas Appraiser Licensing & Certification Board  
P.O. Box 12188  
Austin, Texas 78711-2188

OR2022-01621

Dear Ms. Burgess:

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# 926298 (TREC ID #20211025.1).

The Texas Appraiser Licensing & Certification Board (the "board") received a request for certain complaints and referrals pertaining to a named individual during a defined period of time.<sup>1</sup> 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.

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, such as section 1103.460 of the Occupations Code. Section 1103.460 provides, in part, as follows:

(a) Information or material, including any investigation file, is confidential and not subject to disclosure under [the Act], 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.

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<sup>1</sup> You state the board sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.2d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

(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, register, 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 by the board in connection with a specified investigation. You further state 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). In addition, you 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 at issue is not subject to disclosure under the Act pursuant to section 1103.460(e). *See id.* § 1103.460(e). There is no indication the requestor has a right of access to the information under section 1103.460(b) of the Occupations Code. *See id.* § 1103.460(b). Based upon these 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.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jxd

Ref: ID# 926298

Enc. Submitted documents

c: Requestor  
(w/o enclosures)