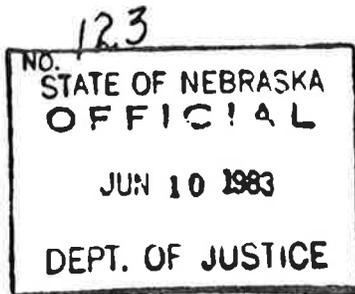


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402 471 2682 • STATE CAPITOL • LINCOLN NEBRASKA 68509

June 7, 1983



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SUBJECT: State Board of Examiners for Professional Engineers and Architects; examination scores; withholding from public inspection.

REQUESTED BY: Arthur Duerschner, Executive Director, State Board of Examiners for Professional Engineers and Architects.

OPINION BY: Paul L. Douglas, Attorney General, J. Kirk Brown, Assistant Attorney General.

QUESTION: Must the examination scores of an applicant be disclosed upon a request pursuant to Neb.Rev.Stat. §84-712 (Reissue 1981)?

CONCLUSION: No.

You have inquired whether the results of examinations conducted by the State Board of Examiners for Professional Engineers and Architects (hereinafter Board) may properly be withheld from public inspection.

Neb.Rev.Stat. §84-712 (Reissue 1981) provides:

Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in section 84-712.01, are hereby fully empowered and authorized to examine the same, and to make memoranda and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business.

Specific exemptions from the provisions of §84-712 are contained in Neb.Rev.Stat. §84-712.05, which provides in part:

The following records, unless publicly disclosed in an open court, open administrative proceeding or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

. . . .

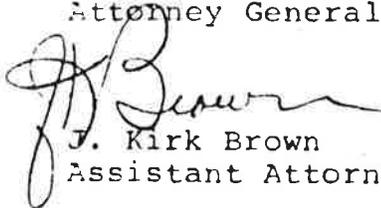
(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, the investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training.

Neb.Rev.Stat. §81-841 (Reissue 1981) creates the Board. Neb.Rev.Stat. §81-839 (Reissue 1981) finds that it is necessary that persons practicing engineering or architecture "submit evidence he is qualified so to practice." Neb.Rev.Stat. §81-848 (Reissue 1981) empowers and requires the Board to administer "a written examination in the profession of engineering or architecture" to determine "minimum evidence" of an applicant's qualification to practice. Neb.Rev.Stat. §81-856 (Reissue 1981) "declares that sections 81-839 to 81-856 are necessary for the public convenience and welfare, remedial in nature and shall be construed liberally."

Reading all of these sections together, it is our opinion that the results or scores which an applicant receives on an examination conducted by the Board may be properly withheld from the public (including an applicant) by the Board or its agents pursuant to §84-712.05(5).

Very truly yours,

PAUL L. DOUGLAS
Attorney General



J. Kirk Brown
Assistant Attorney General

JKB:jmh

APPROVED:



Paul L. Douglas
Attorney General