



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 3, 2006

Mr. Steven D. Monté  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
For the Dallas Central Appraisal District  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR2006-11503

Dear Mr. Monté:

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# 261002.

The Dallas Central Appraisal District (the "district"), which you represent, received a request for a "copy of the contents of any and all binders used by [a named individual] during the appraisal review board hearings on June 22, 23, and 26, 2006." You inform us that some of the requested information will be released to the requestor. You contend that some of the submitted information is subject to section 552.027 of the Government Code. You also claim that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we address your argument that Exhibit 4 is commercially available. Section 552.027 of the Government Code provides that a governmental body is not required under the Act to allow the inspection of information in a commercial publication purchased or acquired by the governmental body for research purposes if the publication is commercially available to the public. *See Gov't Code § 552.027(a)*. You state that the

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

documents at issue were obtained from various publications as part of the district's research. You further state that all of the information in Exhibit 4 is commercially available. Based upon your representations, we conclude that the information submitted as Exhibit 4 is commercially available information that falls within the scope of section 552.027 and need not be released to the requestor.

Next, we address your claim that Exhibit 2 is excepted from disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, including section 22.27 of the Tax Code. Section 22.27(a) provides as follows:

Rendition statements, real and personal property reports, attachments to those statements and reports, and other information the owner of property provides to the appraisal office in connection with the appraisal of the property, including income and expense information related to a property filed with an appraisal office and information voluntarily disclosed to an appraisal office or the comptroller about real or personal property sales prices after a promise it will be held confidential, are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

Tax Code § 22.27(a). We understand that the district is an "appraisal office" for purposes of section 22.27. You indicate that Exhibit 2 contains information about specific real or personal property and property owners, and state that "any income and expense, and sales information provided to [the district] is furnished pursuant to a promise of confidentiality." Based upon your representations and our review of the submitted documents, we conclude that the information at issue is confidential under section 22.27(a) of the Tax Code, and the district must withhold it from disclosure under section 552.101 of the Government Code.

In summary, Exhibit 4 is commercially available information that falls within the scope of section 552.027 of the Government Code and need not be released to the requestor. The district must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaime L. Flores  
Assistant Attorney General  
Open Records Division

JLF/krl

Ref: ID# 261002

Enc. Submitted documents

c: Ms. Abbigail Pendergraft  
O'Conner & Associates  
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Houston, Texas 77018  
(w/o enclosures)