



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 28, 2007

Ms. Donna Rhoades
Chief Appraiser
Palo Pinto Appraisal District
P.O. Box 250
Palo Pinto, Texas 76484

OR2007-15579

Dear Ms. Rhoades:

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# 295752.

The Palo Pinto Appraisal District (the "district") received two requests from the same requestor for sales data from sales of commercial property since January 1, 2006, and commercial ratio studies for 2006 and 2007, including all raw data used to create the studies.¹ You claim that the requested information is excepted from disclosure under sections 552.101 and 552.148 of the Government Code. We have considered the exceptions you claim.

We must address the district's procedural obligations under the Act. Pursuant to section 552.301(e) of the Government Code, a governmental body must, within fifteen business days of receiving the request, submit to this office (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(A)-(D). The district states it received the request for information on September 17, 2007. Accordingly,

¹ As you have not submitted a copy of one of the requests, we take part of our description from your brief.

the fifteen business day deadline to comply with the requirements of section 552.301(e) was October 8, 2007. However, as of the date of this ruling, the district has not submitted a copy of one of the written requests for information. You also have not provided a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. We therefore find that the district has failed to comply with the procedural requirements of section 552.301(e). *See id.*

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. *See* Open Records Decision No. 150 at 2 (1977). Ordinarily, sections 552.101 and 552.148 of the Government Code can provide compelling reasons to overcome this presumption; however, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. We therefore conclude that the district must release the requested information to the requestor pursuant to section 552.302. If you believe this information is confidential and may not lawfully be released, you must challenge this ruling in court as outlined below.

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

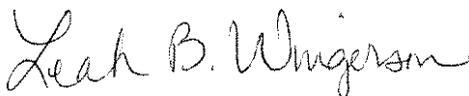
Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/ma

Ref: ID# 295752

Enc. Submitted documents

c: Ms. Abbigail Pendergraft
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(w/o enclosures)