



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 9, 2008

Mr. James R. Evans, Jr.  
Hargrove & Evans, L.L.P.  
4425 Mopac South Building 3, Suite 400  
Austin, Texas 78735

OR2008-04725

Dear Mr. Evans:

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# 306920.

The Lavaca County Central Appraisal District (the "district"), which you represent, received a request for information pertaining to specified parcels of land. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. You also indicate that release of the requested information may implicate the proprietary interests of several third parties. Accordingly, you have notified the interested third parties of this request and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exceptions you claim, and we have received comments submitted by several of the interested third parties. We have also received comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

We must address the district's procedural obligations under the Act. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving a request for information a copy of the specific information requested or representative samples, labeled to indicate which

exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). You inform us that the district received this request on January 22, 2008. However, as of the date of this letter, you have not submitted to this office a copy or representative sample of the specific information requested. Consequently, we find that the district failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See 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). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). However, as you have not submitted any of the requested information to this office for review, we have no basis for finding any of the information confidential by law. Thus, we have no choice but to order you to release the requested information in accordance with section 552.302. If you believe the requested 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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,



Allan D. Meesey  
Assistant Attorney General  
Open Records Division

ADM/eeg

Ref: ID# 306920

Enc. Submitted documents

c: Ms. Laura Lynn Jackson  
1324 North Avenue B.  
Shiner, Texas 77984  
(w/o enclosures)

Ms. Anna R. Evans  
541 C.R. 451  
Hallettsville, Texas 77964  
(w/o enclosures)

Mr. Carroll A. Munson, Jr.  
166 C. R. 328  
Yoakum, Texas 77995  
(w/o enclosures)

Ms. Rebecca L. Castell  
75 Terryville Church Road  
Yoakum, Texas 77995  
(w/o enclosures)

Ms. Donna M. Rice  
P.O. Box 9  
Yoakum, Texas 77995  
(w/o enclosures)

Ms. Juanita L. Desmit  
609 Aubrey Street  
Yoakum, Texas 77995  
(w/o enclosures)

Ms. Mary B. Dieringer  
5023 Ghinaudo Road  
Hitchcock, Texas 77563  
(w/o enclosures)

Mr. Timothy P. Munson  
2053 C. R. 424  
Yoakum, Texas 77995  
(w/o enclosures)

Mr. Mark H. Munson  
P.O. Box 4398  
Temple, Texas 76505  
(w/o enclosures)

Mr. Paul A. Evans  
Ms. Melissa L. Moore  
3904 Retama Drive  
Victoria, Texas 77901  
(w/o enclosures)

Mr. John C. Munson  
107 Ridgecrest Street  
Hallettsville, Texas 77964  
(w/o enclosures)

Mr. Micheal L. Munson  
118 Waterford Drive  
Victoria, Texas 77901  
(w/o enclosures)

Ms. Rachel L. Sammons  
P.O. Box 1494  
Ingleside, Texas 78362  
(w/o enclosures)