



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 5, 2009

Mr. Kirk Swinney  
McCreary Veselka Bragg & Allen, P.C.  
700 Jeffrey Way, Suite 100  
Round Rock, Texas 78664-2425

OR2009-00061

Dear Mr. Swinney:

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# 331304.

The Harrison Central Appraisal District (the "district"), which you represent, received a request for information regarding specific 2006, 2007, and 2008 freeport exemption applications. Although the district takes no position as to the disclosure of the submitted information, you state release of this information may implicate the privacy or proprietary interests of a third party. Accordingly, you state that the district notified the Eastman Chemical Company ("Eastman") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). You have submitted arguments that the district received from Eastman. We have also received comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Eastman raises section 552.101 in conjunction with section 22.27 of the Tax Code, which provides in part:

(a) 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). Eastman generally asserts that the submitted information is confidential under section 22.27 of the Tax Code. However, Eastman does not inform this office, and the documents do not reveal, whether the submitted information was voluntarily provided to the district under a promise of confidentiality. Further, we note the submitted information consists of freeport exemption forms. In order to receive a freeport exemption, Eastman was statutorily required to submit the forms to the district. *See id.* § 11.43. Thus, we find Eastman has failed to demonstrate that the submitted information falls within the scope of section 22.27(a). Accordingly, the district may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

We note that the submitted documents contain information that is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 11.48 of the Tax Code, which provides, in pertinent part:

(a) A driver's license number, personal identification certificate number, or social security account number provided in an application for an exemption filed with a chief appraiser is confidential and not open to public inspection. The information may not be disclosed to anyone other than an employee of the appraisal office who appraises property, except as authorized by Subsection (b).

*Id.* § 11.48(a). The submitted information contains a driver's license number or personal identification certificate number. You do not indicate, nor does it appear to this office, that any of the release provisions of section 11.48(b) apply in this instance. *See id.* § 11.48(b)

(listing five exceptions to confidentiality provision of section 11.48(a)). Thus, the driver's license number or personal identification certificate number provided in the submitted exemption forms are excepted from disclosure under section 552.101 in conjunction with 11.48(a) of the Tax Code. The remaining information must be released.

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). If the governmental body does not file suit over 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,

A handwritten signature in cursive script that reads "C. Alvarado".

Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/cc

Ref: ID# 331304

Enc. Submitted documents.

cc: Requestor  
(w/o enclosures)