



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 27, 2009

Mr. Sands L. Stiefer
Chief Deputy & General Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-9075

OR2009-01054

Dear Mr. Stiefer:

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# 333255 (HCAD# 08002).

The Harris County Appraisal District (the "district") received a request for the (1) account number, (2) sale date, and (3) source, validity, and qualified codes for individual condominium sales occurring after January 1, 2005. The requestor subsequently modified his request to include all individual real property sales occurring after January 1, 2005. You state that some responsive information will be provided to the requestor. You claim that the remaining requested information is excepted from disclosure under sections 552.103 and 552.148 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You state that a portion of the submitted information is subject to a previous ruling issued by this office on January 14, 2009. *See* Open Records Letter No. 2009-00531 (2009). You do not inform us that the pertinent facts and circumstances have changed since the issuance of that prior ruling. Thus, we determine that the district may continue to rely on our ruling in Open Records Letter No. 2009-00531 as a previous determination and withhold or release the information that was subject to our prior ruling in accordance with that decision. *See* Open Records Decision No. 673 (2001) (determining governmental body may rely on previous determination when records or information at issue are precisely same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); governmental body which received request for records or

¹We 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.

information is same governmental body that previously requested and received ruling from attorney general; prior ruling concluded that precise records or information are or are not excepted from disclosure under Act; and law, facts, and circumstances on which prior ruling was based have not changed since issuance of the ruling).

We next address your arguments for the information that was not the subject of the prior ruling. Section 552.148 of the Government Code provides in relevant part that “[i]nformation relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of Section 552.021.” Gov’t Code § 552.148. You state that the remaining requested information consists of sales data obtained from a private entity. Based on your representations and our review, we find that the information obtained from a private entity is generally confidential under section 552.148(a).

However, you acknowledge that a property owner or the owner’s designated agent has a right of access to certain information that is confidential under section 552.148(a) of the Government Code. Subsection (b) of section 552.148 provides the following:

Notwithstanding Subsection (a), the property owner or the owner’s agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner’s protest. Information obtained under this subsection:

- (1) remains confidential in the possession of the property owner or agent; and
- (2) may not be disclosed or used for any purpose except as evidence or argument at the hearing on the protest.

Id. § 552.148(b). You state that the district has released data to the requestor pertaining to protests involving the requestor’s clients that had been scheduled as of the date of the request. You explain that the remaining information falls into two categories, (1) data that the district has considered pertaining to protests where the requestor’s firm does not represent the protesting individual, and (2) data that the district has yet to consider pertaining to protests where the requestor’s firm does represent the protesting individual. We agree that the district must withhold the category one information pursuant to section 552.148(a) of the Government Code.

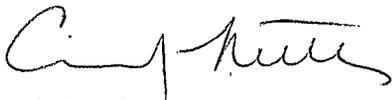
As noted above, you assert that the category two information is sales data that has not yet been considered by the district for section 552.148 purposes. Therefore, that information must also be withheld pursuant to section 552.148(a) of the Government Code.

In summary, the district may continue to rely on our ruling in Open Records Letter No. 2009-00531 as a previous determination and withhold or release the information that was subject to our prior ruling in accordance with that decision. The district must withhold the real property sales data information obtained from private entities, pertaining to either protests for which the requestor's firm does not represent the protesting individual or protests where the requestor's firm does represent the protesting individual but that the district has yet to consider for section 552.148 purposes, under section 552.148(a) of the Government Code.²

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 more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

Ref: ID# 333255

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we do not address your remaining claim.