



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2009

Mr. Vince Maloney
Chief Appraiser
Matagorda County Appraisal District
2225 Avenue G
Bay City, Texas 77414

OR2009-11477

Dear Mr. Maloney:

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# 352389.

The Matagorda County Appraisal District (the "district") received two requests from the same requestor for (1) "all sales letters for Categories C and D" over a specified time period, and (2) "each item of information [from a specified time period] that the chief appraiser took into consideration but does not plan to introduce" at a specified protest hearing. You state the district has released or will release some of the requested information. You claim the remaining requested information is excepted from disclosure under section 552.148 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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

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.

appraisal district under Chapter 6, Tax Code, is excepted from the requirements of Section 552.021.” Gov’t Code § 552.148(a). The Texas Legislature has recently amended section 552.148 to limit the applicability of section 552.148(a) to those counties having a population of 20,000 or more. *See* Act of May 29, 2009, 81st. Leg., R.S., S.B. 1813, § 1 (to be codified at Tex. Gov’t Code § 552.148(d)); Act of June 3, 2009, 81st. Leg., R.S., H.B. 2941, § 1 (to be codified at Tex. Gov’t Code § 552.148(e)). We note that Matagorda County has a population of 20,000 or more. You state that the requested information consists of sales information obtained by the district from private sources. Based on your representations and our review, we find that the district must withhold the information we have marked under section 552.148(a) of the Government Code. However, the remaining information consists of real property sales and appraisal information obtained from property owners. The legislative history of section 552.148 indicates that it was enacted as a result of the issuance of several open records rulings of this office in which we determined that information provided by Multiple Listing Services to appraisal districts under confidentiality agreements is subject to required public disclosure under the Act. *See* House Comm. on State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). Because of these rulings, many multiple listing services stopped providing sales information to appraisal districts. The bill analysis of House Bill 2188 states that the purpose of section 552.148 is to allow the relationships between multiple listing services and appraisal districts to continue. *Id.* Accordingly, we find that property owners are not private entities as intended by the legislature when enacting section 552.148. Therefore, the district may not withhold the remaining information at issue under section 552.148 of the Government Code.

We note that portions of the remaining information are excepted from disclosure under section 552.101 of the Government Code.² Section 552.101 excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses the doctrine of common-law privacy and excepts from public disclosure private information about an individual if the information (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Further, this office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find that the submitted documents contain highly intimate or embarrassing

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

information that is of no legitimate concern to the public. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, (1) the district must withhold the information we have marked under section 552.148(a) of the Government Code; and (2) the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released to the requestor.

This letter ruling is limited to the particular information 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 information 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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/jb

Ref: ID# 352389

Enc: Submitted documents

c: Requestor
(w/o enclosures)