



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2010

Mr. Michael B. Gary
Assistant General Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2010-02205

Dear Mr. Gary:

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# 370289 (HCAD No. 09-03449).

The Harris County Appraisal District (the "district") received a request for (1) the users manual for the computer program software used by the district for calculating valuations, (2) the name of the software and the name and address of the developer of the software, and (3) the district's in-house manual on how to use the program. You claim that you have no responsive information regarding a portion of the request.¹ You claim that the submitted information is not public information that is subject to disclosure under the Act. You also believe that some of the requested materials implicate the proprietary interests of Manatron, Inc. ("Manatron"). You notified Manatron of this request for those materials and of its right to submit arguments to this office as to why they should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

applicability of exception to disclosure under certain circumstances). We have considered your submitted arguments and reviewed the submitted information.²

Initially, we note the requestor has asked for the name of the district's valuation software and the name and address of the developer of the software. We note the requestor has been copied on a letter providing the name and address of the developer of the software. However, you have not submitted the name of the valuation software to this office. Thus, to the extent this information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Government Code provides that "public information" consists of

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

(2) for a governmental body and the governmental body owns the information or has a right of access to it.

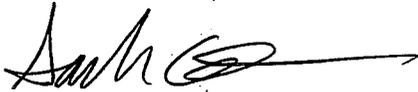
Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information that is made public under section 552.021. *See* ORD 581 at 6 (construing predecessor statute). You state that the submitted information consists of presentations on how to use the district's computer software programs. You explain that these presentations meet the definition of "documentation information" addressed in Open Records Decision No. 581. "Documentation" is defined as "an English language text describing various aspects of a program, such as how the program was written and how it may be used and maintained." *Id.* at 3. Based on your representations and our review of the submitted materials, we conclude that this information is not public information as defined by section 552.002 of the Government Code and thus is not subject to disclosure under the Act. Therefore, the district need not release any of the submitted information in response to this request for information.

²This letter ruling assumes that the submitted representative samples are truly representative of the responsive materials as a whole. This ruling neither reaches nor authorizes the district to withhold any materials that are substantially different from the submitted materials. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 370289

Enc. Submitted documents

c: Requestor
(w/o enclosures)