



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 18, 2012

Mr. Jeff Law  
Executive Director and Chief Appraiser  
Tarrant Appraisal District  
2500 Handley-Ederville Road  
Fort Worth, Texas 76118-6909

OR2012-07502

Dear Mr. Law:

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# 453989.

The Tarrant Appraisal District (the “district”) received a request for supporting documentation concerning rental income and expenses for fifteen specified economic units (“ECUs”).<sup>1</sup> You state the district has no responsive information regarding one of the ECUs.<sup>2</sup> You state some of the requested information has been released to the requestor. You claim the rest of the requested information is excepted from disclosure under section 552.101 of the Government Code. You also believe the remaining information may implicate the proprietary interests of third parties. You inform us the interested parties were notified of the present request for information and of their right to submit arguments to this office as to

---

<sup>1</sup>You explain ECU is a term used by the district to refer to a single parcel of commercial property or to refer collectively to multiple parcels of commercial property that are contiguous, have common ownership, and are regarded in the marketplace as having their highest and best use when operated and traded as a unit rather than as component parts or parcels.

<sup>2</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

why the information at issue should not be released.<sup>3</sup> We received correspondence from two attorneys representing six interested parties. We also received comments from the requestor.<sup>4</sup> We have considered all of the submitted arguments and reviewed the submitted information.

We initially note one of the third parties' attorneys believes some of the information at issue is not responsive to the present request. A governmental body must make a good-faith effort to relate a request for information to responsive information that is within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). In this instance, the district has submitted the information it deems to be responsive to the request. Therefore, we will determine the public availability of all the submitted information.

We next note, and the district acknowledges, that it did not comply with its deadlines under section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(a)-(b), (e). Pursuant to section 552.302 of the Government Code, the information at issue is therefore presumed to be subject to required public disclosure and must be released, unless there is a compelling reason to withhold any of the information. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because the claims of the district and the third parties under sections 552.101 and 552.110 of the Government Code can provide compelling reasons for non-disclosure, we will consider all of the submitted arguments against disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential. Section 22.27 of the Tax Code 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

---

<sup>3</sup>*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 applicability of exception to disclosure under certain circumstances).

<sup>4</sup>*See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

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). We understand the district is an appraisal office for purposes of section 22.27(a) of the Tax Code. The district indicates it obtained the information at issue in connection with appraisals of commercial properties. The district explains this information was voluntarily provided to the district by property owners and their representatives pursuant to promises of confidentiality. The district states section 22.27(b) does not authorize the disclosure of the information at issue. Based on the district's representations and our review, we find the information at issue is confidential under section 22.27(a) of the Tax Code. We therefore conclude the district must withhold the information at issue on that basis under section 552.101 of the Government Code. As we are able to make this determination, we need not address the other arguments against disclosure.

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](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,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/em

Ref: ID# 453989

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Ronald D. Gray  
Geary, Porter & Donovan  
16475 Dallas Parkway, Suite 400  
Addison, Texas 75001-6837  
(w/o enclosures)

Mr. Robert E. Mangum, Jr.  
Looper Reed & McGraw P.C.  
1601 Elm Street, Suite 4600  
Dallas, Texas 75201  
(w/o enclosures)

Alliance Tax Advisors  
433 East Las Colinas Boulevard, Suite 980  
Irving, Texas 75039  
(w/o enclosures)

Mr. Ken Andrews  
1900 Dalrock Road  
Rowlett, Texas 75088  
(w/o enclosures)

AT Industrial Owner 4 LLC  
13600 Heritage Parkway, Suite 200  
Fort Worth, Texas 76177  
(w/o enclosures)

Teachers Insurance & Annuity  
730 3<sup>rd</sup> Avenue, Floor 8  
New York, New York 10017  
(w/o enclosures)

Walton CWTX 360 1CC  
4678 World Parkway Circle  
St. Louis, Missouri 63134  
(w/o enclosures)