



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2014

Ms. Catelyn H. Kostbar
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2014-03093

Dear Ms. Kostbar:

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# 514612 (HCAD Internal Reference No. 13-3237).

The Harris County Appraisal District (the "district") received a request for the renditions and accompanying tax returns related to two specified district accounts. You claim the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, you acknowledge, and we agree, the district did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public and must be released unless there is a compelling reason to withhold it. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 150 at 2 (1977). Because the district's claims under sections 552.101 and 552.130 of the Government Code can provide

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

compelling reasons for non-disclosure under section 552.302 of the Government Code, we will address your arguments.

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 section encompasses information protected by other statutes. Section 22.27 of the Tax Code provides the following:

(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.

(b) Information made confidential by this section may be disclosed:

...

(2) to the person who filed the statement or report or the owner of property subject to the statement, report, or information or to a representative of either authorized in writing to receive the information;

Tax Code § 22.27(a), (b)(2). We understand the district is an “appraisal office” for purposes of section 22.27(a) and that the information at issue consists of confidential information provided to the district by a property owner in connection with the appraisal of the property. *See id.* § 22.27(a). However, a property owner or the owner’s designated agent has a right of access to information that is confidential under section 22.27(a). *See* Attorney General Opinion JC-0424 (2001). In this instance, we note the requestor may be the authorized representative of the owner of the properties at issue and thus may have a right of access to the requested information that would otherwise be confidential under section 22.27. *See* Tax Code § 22.27(b)(2). Thus, we must rule conditionally. If the requestor does not provide the requisite written authorization under section 22.27(b)(2), then the district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. However, if the requestor provides the requisite written

authorization pursuant to section 22.27(b)(2) of the Tax Code, the district may not withhold the information at issue from this requestor under section 552.101 on that basis.

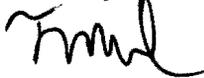
In the event the requestor has a right of access under section 22.27(b)(2) of the Tax Code, you raise section 552.130 of the Government Code for portions of the information at issue. Section 552.130(a)(2) excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). We note section 552.130 protects personal privacy. In the event the requestor is the authorized representative of the property owner at issue, he also has a special right of access to the motor vehicle information of the owner he represents pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond the right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987). Therefore, the district may not withhold any of the information at issue under section 552.130 of the Government Code.

In summary, if the requestor does not provide the requisite written authorization under section 22.27(b)(2), then the district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. If the requestor provides the requisite written authorization pursuant to section 22.27(b)(2) of the Tax Code, the district must release the information at issue 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 514612

Enc. Submitted documents

c: Requestor
(w/o enclosures)