



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 7, 2014

Mr. Michael B. Gary  
Chief Legal Officer  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-0975

OR2014-05686

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# 518887 (HCAD Internal Ref. No. 14-1132).

The Harris County Appraisal District (the "district") received a request for a specified in-house study. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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, such as section 22.27 of the Tax Code, which provides in pertinent 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

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<sup>1</sup>We 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.

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.

Tax Code § 22.27(a). You indicate the district is an “appraisal office” for purposes of section 22.27(a). You state, and the submitted documents reflect, some of the submitted information was furnished to the district by property owners in connection with the appraisal of property. You also state the submitted sales price information was voluntarily furnished to the district by property owners under a promise of confidentiality. Thus, the submitted sales information that was furnished to the district by property owners in connection with the appraisal of property and under a promise of confidentiality is confidential under section 22.27(a) of the Tax Code, and must be withheld under section 552.101 of the Government Code. Furthermore, the district must withhold the remaining information that was furnished to it by property owners in connection with the appraisal of property under section 552.101 in conjunction with section 22.27(a) of the Tax Code.

Section 552.149 of the Government Code provides, in relevant part:

(a) Information 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 [the Act].

(b) 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[.]

Gov’t Code § 552.149(a)-(b). The Eighty-second Texas Legislature amended section 552.149 to limit the applicability of subsections 552.149(a) and (b) to those counties having a population of 50,000 or more. *Id.* § 552.149(e). We note Harris County has a population of 50,000 or more. The legislative history of the statutory predecessor to section 552.149 indicates it was enacted as a result of the issuance of several open records rulings of this office in which we ruled information provided by the multiple listing service

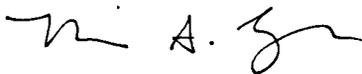
(the "MLS") to appraisal districts under confidentiality agreements is subject to required public disclosure under the Act. House Comm. on State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). Because of these rulings, many MLS agencies stopped providing sales information to appraisal districts. The bill analysis of House Bill 2188 states the purpose of this statute is to allow the relationships between the MLS and appraisal districts to continue. *Id.* You indicate, and the submitted documents reflect, some of the submitted information relates to real property sales and was provided to the district by private entities. Thus, to the extent the submitted information relates to real property sales and was provided to the district by private entities, it must be withheld under section 552.149(a) of the Government Code. However, to the extent the submitted information does not relate to real property sales or was not provided to the district by private entities, it may not be withheld under section 552.149 of the Government Code.

In summary, the submitted sales price information that was voluntarily furnished to the district by property owners in connection with the appraisal of property and under a promise of confidentiality must be withheld under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. The district must also withhold the remaining information that was submitted to the district by property owners in connection with the appraisal of property under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. To the extent the submitted information relates to real property sales and was provided to the district by private entities, it must be withheld under section 552.149(a) of the Government Code. The district must release the remaining information.

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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/bhf

Ref: ID# 518887

Enc. Submitted documents

c: Requestor  
(w/o enclosures)