



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2014

Mr. John J. Carlton
Counsel for the Travis County Emergency Services District No. 2
The Carlton Law Firm, P.L.L.C.
2705 Bee Cave Road, Suite 200
Austin, Texas 78746

OR2014-08648

Dear Mr. Carlton:

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# 521735.

The Travis County Emergency Services District No. 2 (the "district"), which you represent, received a request for all documents concerning a sales tax election by the district, including any communications by the Commissioners, Fire Chief, Assistant Chief, union representatives, Travis County Commissioners, or a Travis County Judge, over a specified period of time.¹ You state the district has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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

¹You state the district sought and received clarification of the information requested. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Code § 552.101. Section 552.101 encompasses information protected by other statutes. You inform us that pursuant to section 775.0751(a) of the Health and Safety Code, the district may adopt, change, or abolish its sales and use tax. *See* Health & Safety Code § 775.0751(a). Pursuant to section 775.0751(b), chapter 323 of the Tax Code applies to the application, collection, and administration of a tax imposed under section 775.0751(a). *See id.* § 775.0751(b). You seek to withhold the submitted information under section 323.3022 of the Tax Code, which provides in relevant part:

(a) In this section, “other local governmental entity” includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

...

(c) The [Texas Comptroller of Public Accounts (the “comptroller”)] on request shall provide to a county or other local governmental entity that has adopted a tax under this chapter information relating to the amount of tax paid to the county or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the county or other local governmental entity, that is part of:

...

(8) any area defined by the county or other local governmental entity for the purpose of economic forecasting.

...

(g) Information received by a county or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the county or other local governmental entity under this chapter, or for the purpose described by Subsection (h).

Tax Code § 323.3022(a), (c)(8), (g). We understand the district is a “local government entity” for purposes of section 323.0322(a). *See id.* § 323.3022(a). You state that as “part of its economic forecasting and consideration of a potential change in its sales and use tax rate, the [d]istrict received and considered certain tax information provided by the [comptroller].” You inform us the submitted information, which includes two reports

created by Sales Tax Assurance, L.L.C. to assist the district with economic forecast and planning, was compiled using the tax information provided to the district by the comptroller pursuant to section 323.3022(c)(8). You argue the submitted information is confidential in its entirety under section 323.3022(g) because the information “provide[s] projections based on the protected tax information” and that “the projections cannot be revealed without revealing the protected information on which the projections are based.” However, we note section 323.3022(g) only makes confidential the “information received” by the district from the comptroller. *See id.* § 323.3022(g). You have not identified any specific information within the submitted documents that you inform us was received from the comptroller. Thus, to the extent the submitted information consists of actual information provided to the district by the comptroller relating to the amount of tax paid to the district, we find the district must only withhold any such information under section 552.101 of the Government Code in conjunction with section 323.3022(g) of the Tax Code. However, we find the district has not demonstrated that any of the remaining information in the submitted reports and e-mails was received by the district pursuant to section 323.3022(c)(8). Therefore, the information that was not provided to the district by the comptroller pursuant to section 323.3022(c)(8) may not be withheld under section 552.101 of the Government Code in conjunction with section 323.3022(g) of the Tax Code.

We note some of the remaining information is subject to section 552.137 of the Government Code.² Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See Gov’t Code* § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the district must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, the district must withhold the information provided to the district by the comptroller that relates to the amount of tax paid to the district under section 552.101 of the Government Code in conjunction with section 323.3022(g) of the Tax Code. The district must withhold the personal e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. 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.

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

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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 521735

Enc. Submitted documents

c: Requestor
(w/o enclosures)