



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 28, 2014

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

OR2014-09116

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# 524062 (HCAD No. 13-4294).

The Harris County Appraisal District (the "district") received a request for (1) "the HCAD equal and uniform analysis for tax years 2011, 2012 and 2013" for a specified parcel, and (2) "any and all income worksheets and any operating statements presented at the [Appraisal Review Board panel hearings]" for specified accounts. You state you will release a portion of the requested information. You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code.¹ We

¹You 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), (e). However, because the district's claims under sections 552.101 and 552.149 of the Government Code can provide compelling reasons for non-disclosure under section 552.302, we will address your arguments under those exceptions. *See* Open Records Decision No. 150 at 2 (1977).

have considered the exceptions you claim and reviewed the submitted representative sample of information.²

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). You indicate portions of Exhibits C-2, D-2, E-2, F-2, and G-2 consist of confidential information provided to the district by a property owner in connection with the appraisal of property. *See id.* § 22.27(a). You further state the requestor is not an authorized representative of the owner of the properties at issue and, thus, does not have a

²We assume that 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 that those records contain substantially different types of information than that submitted to this office.

right of access to the requested information that would otherwise be confidential under section 22.27. *See id.* § 22.27(b)(2). Accordingly, the district must withhold the information you have indicated in Exhibits C-2, D-2, E-2, F-2, and G-2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

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

(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. In this instance, you state the information you have indicated in Exhibits C-1, D-1, E-1, F-1, and G-1 relates to real property sales and was provided to the district by private entities. You state the information at issue does not contain information to which the requestor has a right of access pursuant to section 552.149(b). *See* Gov't Code § 552.149(b). Accordingly, based on your representations and our review, we find the district must withhold the information you have indicated in Exhibits C-1, D-1, E-1, F-1, and G-1 under section 552.149(a) of the Government Code.

In summary, the district must withhold the information you have indicated in Exhibits C-2, D-2, E-2, F-2, and G-2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code and the information you have indicated in Exhibits C-1, D-1, E-1, F-1, and G-1 under section 552.149(a) of the Government Code. The remaining information must be released.

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/dls

Ref: ID# 524062

Enc. Submitted documents

c: Requestor
(w/o enclosures)