



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 17, 2014

Mr. Christopher S. Jackson  
Counsel for the Guadalupe Appraisal District  
Perdue Brandon Fielder Collins & Mott, LLP  
3301 Northland Drive, Suite 505  
Austin, Texas 78731

OR2014-10365

Dear Mr. Jackson:

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# 526379.

The Guadalupe Appraisal District (the "district"), which you represent, received a request for information pertaining to a specified property from a specified period of time. You state the district is making some of the requested information available to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. Additionally, you state release of the submitted information may implicate the interests of the San Marcos Area Board of Realtors ("SMABOR"). Accordingly, the district notified SMABOR of the request for information and of its right to submit arguments stating why its information should not be released. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain

circumstances). We have received comments on behalf of SMABOR. We have considered the submitted arguments 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. 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). You inform us the district is an “appraisal office” for purposes of section 22.27(a). You state portions of Exhibits E and F consist of confidential information provided to the district by property owners 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 right of

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<sup>1</sup>We 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.

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 highlighted that was provided to the district by property owners in connection with the appraisal of property in Exhibits E and F 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). You inform us Guadalupe County has a population of 50,000 or more. In this instance, you state the remaining information you have highlighted in Exhibits E and F 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 id.* § 552.149(b). Accordingly, based on your representations and our review, we find the district must withhold the remaining information you have highlighted in Exhibits E and F under section 552.149(a) of the Government Code.<sup>2</sup>

In summary, the district must withhold the information you have highlighted that was provided to the district by property owners in connection with the appraisal of property in Exhibits E and F under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code and the remaining information you have highlighted in Exhibits E and F under section 552.149(a) of the Government Code. The remaining information must be released.

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<sup>2</sup>As our ruling is dispositive, we need not address SMABOR's argument 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.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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a stylized flourish at the end.

Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/bhf

Ref: ID# 526379

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

San Marcos Area Board of Realtors  
c/o Ms. Carrie Lane  
The Majors Law Firm  
100 East San Antonio, Suite 102  
San Marcos, Texas 78666  
(w/o enclosures)