



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2014

Ms. E. Barry Gaines
Legal Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2014-13930

Dear Ms. Gaines:

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# 532299 (HCAD internal reference No. 14-2695B).

The Harris County Appraisal District (the "district") received a request for the audio and video recordings of a specified Appraisal Review Board (the "board") panel hearing. You state you do not have some information.¹ You claim 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 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 Code § 552.101. Section 552.101 encompasses information protected by other statutes. You state the submitted video of the board hearing is confidential under section 22.27 of the Tax Code as provided by section 41.66 of the Tax Code. Section 41.66(d) of the Tax Code states "Except as provided by Subsection (d-1), hearings conducted as provided by this chapter are open to the public." Tax Code § 41.66(d). Section 41.66 further states, in pertinent part,

(d-1) Notwithstanding Chapter 551, Government Code, the appraisal review board shall conduct a hearing that is closed to the public if the property owner or the chief appraiser intends to disclose proprietary or confidential information at the hearing that will assist the review board in determining the protest. The review board may

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); *Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).*

hold a closed hearing under this subsection only on a joint motion by the property owner and the chief appraiser.

(d-2) Information described by Subsection (d-1) is considered information obtained under Section 22.27, [Tax Code].

Id. § 41.66 (d-1) (footnote omitted), (d-2). Thus, proprietary or confidential information disclosed by the property owner or chief appraiser during a board hearing is subject to section 22.27. *See id.* You state, and provide documentation showing, the hearing at issue was conducted as a closed hearing pursuant to subsection 41.66(d-1). Further, you state the evidence discussed at the board hearing at issue included confidential information. Gov't Code § 552.149(a) (stating information relating to real property sales prices, descriptions, characteristics, and other related information received by appraisal district from private entity is confidential under the Act). Accordingly, we address section 22.27 for the submitted information.

Section 22.27 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.

Tax Code § 22.27(a). As noted above, confidential information disclosed during a closed appraisal board hearing is considered information obtained under section 22.27. *See id.* § 41.66(d-2). You state, and we agree, confidential information was discussed during the board hearing recorded on the video at issue. Thus, we find the confidential information disclosed in the submitted information is subject to section 22.27. You indicate none of the exceptions in section 22.27(b) apply in this instance. Accordingly, we find the confidential information disclosed in the board hearing at issue must be withheld under section 552.101 in conjunction with section 22.27 of the Tax Code. However, you have failed to demonstrate the remaining information at issue is confidential under section 22.27 of the Tax Code. Thus, the remaining information at issue may not be withheld under section 552.101 in conjunction with section 22.27 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].

Gov't Code § 552.149(a). The Eighty-second Texas Legislature amended section 552.149 to limit the applicability of subsection 552.149(a) 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. Upon review, we find you have failed to demonstrate the remaining information consists of information received from a private entity by the district for purposes of section 552.149 of the Government Code. Thus, no portion of the remaining information may be withheld under section 552.149.

In summary, the confidential information disclosed in the board hearing at issue must be withheld under section 552.101 in conjunction with section 22.27 of the Tax 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 532299

Enc. Submitted documents

c: Requestor
(w/o enclosures)