



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2014

Ms. Catelyn H. Kostbar  
Administrative Technician III  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-0975

OR2014-15437

Dear Ms. Kostbar:

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# 535064 (HCAD Internal Reference No. 14-2213J).

The Harris County Appraisal District (the "district") received a request for information pertaining to a specified property. You claim the submitted information is excepted from disclosure under sections 552.101, 552.136, and 552.149 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information, a portion of which constitutes a representative sample.<sup>2</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."

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<sup>1</sup>We note the district did not comply with the requirements of section 552.301(b) of the Government Code. *See* Gov't Code § 552.301(b). Nonetheless, sections 552.101, 552.136, and 552.149 of the Government Code are mandatory exceptions that can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the district's claims under these exceptions.

<sup>2</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 that those records contain substantially different types of information than that submitted to this office.

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 state some of the submitted information consists of confidential information provided to the district by the property owner in connection with the appraisal of the property. *See id.* § 22.27(a). You further state the requestor is not an authorized representative of the owner of the property at issue and, thus, does not have a right of access to the requested information that would otherwise be confidential under section 22.27. *See id.* § 22.27(b)(2). Therefore, the district must withhold the information in Exhibits C2, C5, and C7 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

Section 552.136 of the Government Code states, "Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). Section 552.136(a) defines "access device" as "a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument

identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). You represent that iFile numbers can be used to access confidential property information that is valuable to property owners and third party professionals involved in the protests of property tax appraisals. Based on your representations and our review, we agree the iFile numbers at issue are access device numbers for purposes of section 552.136(a). Accordingly, the district must withhold the iFile numbers you have marked in Exhibits B1- B8 under section 552.136(b) of the Government 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[.]

*Id.* § 552.149(a)-(b). The applicability of subsections 552.149(a) and (b) is limited 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, we understand the information you have marked in Exhibits C1, C3, C4, C6, C8, C9, and D1-16 relates to real property sales and was provided to the district by a private entity. You state the requestor is not the owner of the properties at issue or the agent of the owners. *See id.* § 552.149(b). Based on your representations and our review, we find the district must withhold the information you have marked in Exhibits C1, C3, C4, C6, C8, C9, and D1-16 under section 552.149(a) of the Government Code.

In summary, the district must withhold the information in Exhibits C2, C5, and C7 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code, the information you have marked in Exhibits B1- B8 under section 552.136(b) of the Government Code, and the information you have marked in Exhibits C1, C3, C4, C6, C8, C9, and D1-16 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/ds

Ref: ID# 535064

Enc. Submitted documents

c: Requestor  
(w/o enclosures)