



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 4, 2014

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

OR2014-15613

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# 535068 (HCAD Reference No. 14-2213G).

The Harris County Appraisal District (the "district") received a request for information pertaining to a named individual and specified address. The district states it will provide some of the requested information to the requestor, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.136, and 552.137 of the Government Code. The district also states, and provides documentation showing, it notified Facet Technology Corporation ("Facet") of the district's receipt of the request for information and of Facet's right to submit arguments to this office as to why the requested information should not be released. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability*

of exception in the Act in certain circumstances). We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses section 11.48(a) of the Tax Code, which reads as follows:

A driver’s license number, personal identification certificate number, or social security account number provided in an application for an exemption filed with a chief appraiser is confidential and not open to public inspection. The information may not be disclosed to anyone other than an employee of the appraisal office who appraises property, except as authorized by Subsection (b).

Tax. Code § 11.48(a). The submitted information includes an application for an exemption that contains driver’s license and social security numbers. *See id.* You do not indicate, and it does not appear to this office, the release provisions of section 11.48(b) apply. *See id.* § 11.48(b). Thus, the district must withhold the driver’s license and social security numbers you have marked under section 552.101 of the Government Code in conjunction with section 11.48(a) of the Tax Code.<sup>2</sup>

Section 552.136 of the Government Code provides in part the following:

(a) In this section, “access device” means 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:

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<sup>1</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 those records contain substantially different types of information than that submitted to this office. You also acknowledge, and we agree, the district did not comply with the requirements of section 552.301 of the Government Code. *See* Gov’t Code § 552.301(b), (e). Nonetheless, sections 552.101, 552.130, 552.136, and 552.137 of the Government Code and the interests of third parties 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 whether the submitted information must be withheld under the Act on those grounds.

<sup>2</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) 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(a)-(b). You represent the submitted iFile numbers can be used to access confidential property information. You state this confidential property information 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 constitute access device numbers for purposes of section 552.136(a). Accordingly, the district must withhold the iFile numbers we have marked under section 552.136(b) of the Government Code. However, we find you have failed to demonstrate the applicability of section 552.136 to any of the remaining information at issue, and the district may not withhold it on that ground.

Section 552.137 of the Government Code 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). *Id.* § 552.137(a)-(c). Section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. The address we have marked does not appear to be of a type specifically excluded by section 552.137(c). Accordingly, the district must withhold the marked e-mail address under section 552.137, unless the owner of the address affirmatively consents to its release. *See id.* § 552.137(b).

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, you state the information in Exhibit E 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 Exhibit E under section 552.149(a) of the Government Code.

Finally, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, Facet has not submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding any portion of the submitted information constitutes proprietary information of that third party, and the district may not withhold any portion of the remaining submitted information on that basis. *See Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3.*

In summary, the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 11.48(a) of the Tax Code. The district must withhold the information we have marked under section 552.136 of the Government Code. The district also must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the address affirmatively consents to its release. The district must withhold Exhibit E under section 552.149(a) of the Government Code. 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.

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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/bhf

Ref: ID# 535068

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)