



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 20, 2015

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

OR2015-14715

Dear Mr. 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# 572157 (HCAD Ref. No. 15-2036).

The Harris County Appraisal District (the "district") received a request for certain information for a specified account number during a specified time period.¹ You state the district will provide the requestor with some of the requested information. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments 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."

¹We note the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

²We 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.

Gov't Code § 552.101. Section 552.101 encompasses section 22.27 of the Tax Code, which 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) and you state the information you have marked and indicated consists of confidential information provided to the district pursuant to section 22.27(a) of the Tax Code. We note the requestor may be an authorized agent of the owner of the property at issue and, therefore, may have a right of access to the information at issue that would otherwise be confidential under section 22.27. *See id.* § 22.27(b)(2); *see also id.* § 1.111 (governing property owner's authority to designate agent to act on owner's behalf in property tax matters). Thus, we must rule conditionally. If the requestor provides the requisite written authorization pursuant to section 22.27(b)(2) of the Tax Code, the district must release the information at issue to this requestor. If the requestor does not provide the requisite written authorization under section 22.27(b)(2), the district must withhold the information you have marked and indicated 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:

(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). Subsections 552.149(a) and (b) are 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. You state the information you have marked consists of information related to real property sales, descriptions, and characteristics provided to the district by private entities. Therefore, we find the information you have marked is generally confidential under section 552.149(a) of the Government Code. However, pursuant to section 552.149(b), a property owner or the owner's designated agent has a right of access to certain information that is confidential under section 552.149(a). In this instance, the requestor may be acting as an agent of a property owner at issue. However, you do not inform us whether a protest was filed regarding a property of which the requestor is an agent of the owner. If a protest was filed regarding a property of which the requestor is an agent of the owner, the requestor may have a right of access to certain information about that property under section 552.149(b). As stated above, subsection (b) provides a property owner or the owner's agent a right of access to information described by section 41.461(a)(2) of the Tax Code, information the chief appraiser took into consideration during the appraisal but does not plan to introduce at the hearing on the protest, and comparable sales data from a reasonable number of sales that is relevant to the matter to be determined by the appraisal board. *See id.* § 552.149(b). Accordingly, if the requestor is the agent of the owner of a property regarding which a protest was filed, then the district must release each item of information described by section 41.461(a)(2) of the Tax Code, a copy of each item of information the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest, and 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. In that instance, the district must withhold any remaining information you have marked under section 552.149(a) of the Government Code. However, if the requestor is not an agent of an owner of a property regarding which a protest was filed, then the district must withhold the information you have marked that was provided to the district by private entities under section 552.149(a) of the Government Code.

In summary, if the requestor does not provide the requisite written authorization under section 22.27(b)(2) of the Tax Code, the district must withhold the information you have marked and indicated under section 552.101 of the Government Code in conjunction with

section 22.27(a) of the Tax Code. However, if the requestor provides the requisite written authorization pursuant to section 22.27(b)(2) of the Tax Code, the district must release the information you have marked and indicated under section 22.27 to this requestor. If the requestor is the agent of the owner of a property regarding which a protest was filed, then the district must release each item of information described by section 41.461(a)(2) of the Tax Code, a copy of each item of information the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest, and 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, and must withhold the remaining information you have marked under section 552.149(a) of the Government Code. If the requestor is not an agent of an owner of such a property, then the district must withhold the information you have marked 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/som

Ref: ID# 572157

Enc. Submitted documents

c: Requestor
(w/o enclosures)