



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 13, 2015

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

OR2015-16706

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# 575206 (Ref. No. 15-2240).

The Harris County Appraisal District (the "district") received a request for specified district procedural manuals and specified hearing supplemental data.¹ You state you have released some information to the requestor. You claim some of the submitted information is not subject to the Act pursuant to section 552.027 of the Government Code. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. You also state you notified Apartment Data Services, Inc.; CoStar Group, LLC; PricewaterhouseCoopers, LLP; and REIS Services, LLC ("REIS"), of the request for information and of their right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of

¹You state the district sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (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).

exception in the Act in certain circumstances). We have received comments from REIS. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

Section 552.027 of the Government Code provides the Act does not require a governmental body to allow the inspection of or to provide a copy of information in a commercial publication purchased or acquired by the governmental body for research purposes if the publication is commercially available to the public. *See* Gov't Code § 552.027(a). Section 552.027 is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. You state the information you have indicated is commercially available. You explain the information consists of reports the district has access to pursuant to a licensing agreement with the interested third parties through a subscription to their services. You inform us subscriptions to the interested third parties' services and products are not limited to governmental bodies, and you have provided information showing interested the third parties' services and products are offered to the general public. You also state the district acquired the information at issue for research purposes. Based on your representations and our review of the information at issue, we agree the information at issue consists of information purchased or acquired by the district for research purposes that is commercially available to the public. Thus, we find the information you have indicated need not be released to the requestor.³

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

²We 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.

³As our ruling is dispositive, we need not address REIS's argument against disclosure of some of this information.

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). 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, and it was obtained from 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). Based on your representations and our review, we find the district must withhold the information you have marked under section 552.149(a) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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.

Tax Code § 22.27(a). We understand the district is an "appraisal office" for purposes of section 22.27(a). You represent the information you have marked was furnished to the district by property owners or agents of property owners in connection with the appraisals of property and was obtained under promises of confidentiality. None of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b). Based on your representations and our review, we find the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

In summary, the information you have indicated is commercially available information that falls within the scope of section 552.027 and need not be released to the requestor. The district must withhold the information you have marked under section 552.149(a) of the Government Code. The district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax 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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 575206

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Bruce McClenny
President
Apartment Data Services, LLC
1500 South Dairy Ashford, Suite 175
Houston, Texas 77077
(w/o enclosures)

CoStar Group, Inc.
Attn: Director of Sales Administration
1331 L Street, NW
Washington, D.C. 20005-4101
(w/o enclosures)

PricewaterhouseCoopers, LLP
New York Chairman's Office – US Firm
300 Madison Avenue, 24th Floor
New York, New York 10017
(w/o enclosures)

Reis Services, LLC
c/o Mr. Steven M. Cordero
Akerman, LLP
666 Fifth Avenue, 20th Floor
New York, New York 10103
(w/o enclosures)