



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2015

Mr. Christopher S. Jackson
Counsel for the Guadalupe Appraisal District
Perdue Brandon Fielder Collins & Mott, LLP
3301 Northland Drive, Suite 505
Austin, Texas 78731

OR2015-19646

Dear Mr. Jackson:

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# 579949.

The Guadalupe Appraisal District (the "district") received a request for all documents and evidence regarding protests for evaluation from 2012 to the date of the request for a specified property. You state you have released some information to the requestor. You also state you do not have information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. Additionally, you state release of the submitted information may implicate the interests of Four Rivers Association of Realtors ("Four Rivers"). Accordingly, the district notified Four Rivers of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or

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).

should not be released). We have received comments from Four Rivers. We have considered the submitted arguments 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.” *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.

(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). You inform us the district is an “appraisal office” for purposes of section 22.27(a). You state Exhibits B1 and B2 consist of confidential information provided to the district by property owners in connection with the appraisal of property. *See id.* § 22.27(a). None of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b)(2). Based on your representations and our review, we find the district must withhold Exhibits B1 and B2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

The district and Four Rivers argue section 552.149 of the Government Code for portions of the remaining information. Section 552.149 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[.]

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). You inform us Guadalupe County has a population of 50,000 or more. In this instance, you state the remaining information you have highlighted in Exhibit B3 consists of real property sales information that was received from the multiple listing service maintained by Four Rivers. You indicate the requestor does not have a right of access to this information pursuant to section 552.149(b). *See id.* § 552.149(b). Accordingly, based on your representations and our review, we find the district must withhold the information you have highlighted in Exhibit B3 under section 552.149(a) of the Government Code.²

In summary, the district must withhold Exhibits B1 and B2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. The district must withhold the information you have highlighted in Exhibit B3 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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²As our ruling is dispositive, we need not address Four River's remaining argument against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thana Hussaini', with a large, stylized initial 'T' and 'H'.

Thana Hussaini
Assistant Attorney General
Open Records Division

TSH/cbz

Ref: ID# 579949

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Carrie Lane
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The Majors Law Firm
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(w/o enclosures)