



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 11, 2015

Mr. Kirk Swinney
Counsel for Hardeman County Appraisal District
McCreary, Veselka, Bragg & Allen, P.C.
700 Jeffrey Way, Suite 100
Round Rock, Texas 78665

OR2015-26027

Dear Mr. Swinney:

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# 590461.

The Hardeman County Appraisal District (the "district"), which you represent, received a request for the district's 2015 mineral data file. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state you will notify potentially affected third parties of the request. *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 exception you claim and reviewed the submitted information.

Initially, you note the requestor states he prefers to receive copies of the requested data file in electronic format. Section 552.228 of the Government Code requires a governmental body to provide a copy of the public information in the requested medium if it has the technological ability to do so without the purchase of software or hardware. *See* Gov't Code § 552.228(b)(1), (2). However, you state, "the data file may be manipulated much more readily to recreate the division orders." Therefore, you object to releasing the requested data file. We note, however, this office has determined the Act does not permit the consideration by a governmental body or this office of a requestor's intended use of information when responding to open records requests. *See id.* § 552.222(a) (stating governmental body may not inquire into purpose for which information will be used); *see also* Open Records Decision Nos. 508 at (1988) (motives of a person seeking information under the Act are irrelevant), 51 (1974). Additionally, a governmental body is not responsible for the use that

may be made of information that it releases to the public. *See* Gov't Code § 552.204; ORD 508 at 3 (use that may be made of information does not control whether it falls within exception to disclosure). A governmental body must release the information to which a requestor seeks access unless the information falls within the scope of an exception to public disclosure under the Act. *See* Gov't Code § 552.221; Open Records Decision No. 664 (2000). Additionally, as you have submitted the requested information to this office for review in an electronic format, we understand the district has the technological capability to provide the requested data file to the requestor in an electronic format. Accordingly, to the extent the submitted information is subject to release, the district must provide the submitted data file in an electronic format. *See* Gov't Code § 552.228(c).

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, such as section 22.27 of the Tax Code, which provides, in pertinent part:

(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:

...

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain[.]

Tax Code § 22.27(a), (b)(6). You indicate the district is an "appraisal office" for purposes of section 22.27(a). You state the submitted information was provided to the district in connection with the appraisal of property and under a promise of confidentiality. However, you inform this office the submitted information is required to be included in public appraisal rolls pursuant to certain provisions in the Tax Code and Texas Administrative Code. *See* Tax Code §§ 25.03(a) (property shall be described in the appraisal records with sufficient

certainty to identify it), .12(a) (except as provided by subsection (b), each mineral interest shall be listed in the name of the owner of the interest), .20 (a taxing unit shall have reasonable access to the appraisal records at any time), .22 (the completed appraisal records shall be submitted to the appraisal review board for review and determination of protests); 34 T.A.C. §§ 9.3001(b)(1) (appraisal cards shall contain the legal description of the land), .3009 (appraisal district offices shall develop and maintain an alphabetical index of property owners containing the name of the owner and the account number of the property), .3014 (appraisal district offices shall develop and maintain a system of property identification and description). Thus, we find the information at issue is subject to section 22.27(b)(6) of the Tax Code and is not confidential pursuant to section 22.27(a). *See* Open Records Decision No. 347 at 6 (1982) (subsection 22.27(b)(6) expressly permits disclosure of information which, while confidential in the rendition statement, is also required to be in public appraisal roll). Accordingly, the district may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. As you raise no further exceptions to disclosure, the submitted 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 590461

Enc. Submitted documents

c: Requestor
(w/o enclosures)