



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2016

Mr. James R. Evans, Jr.  
Counsel for the Caldwell County Appraisal District  
Hargrove & Evans, L.L.P.  
4425 MoPac South, Building 3, Suite 400  
Austin, Texas 78735

OR2016-12715

Dear Mr. Evans:

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# 612684.

The Caldwell County Appraisal District (the "district"), which you represent, received a request for tax information pertaining to a specified oil-and-gas lease. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. You also state you have notified the appraisal companies in possession of this information of this request for information and of their right to submit arguments to this office as to why the submitted information 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 exception in the Act in certain circumstances). We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

The district asserts the submitted information is excepted from disclosure under section 552.110 of the Government Code. Section 552.110 protects the property interests of private persons by excepting from disclosure two types of information: (1) trade secrets obtained from a person and privileged or confidential by statute or judicial decision and (2) commercial or financial information for which it is demonstrated based on specific factual

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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 that those records contain substantially different types of information than that submitted to this office.

evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. Gov't Code § 552.110(a)-(b). However, section 552.110 protects only the interests of the third parties that have provided information to a governmental body, not those of the governmental body itself. Therefore, we do not address the district's argument under section 552.110. 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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any appraisal companies explaining why any of the submitted information should not be released. Therefore, we have no basis to conclude the appraisal companies have a protected proprietary interest in the submitted information. *See id.* § 552.110; 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. Accordingly, the district may not withhold the submitted information on the basis of any proprietary interests the appraisal companies may have in the 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." Gov't Code § 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.

Tax Code § 22.27(a). You state the submitted information was furnished to the district by the owners of the property at issue in connection with the appraisal of the property. You state the information at issue "might not have been obtained under any promise of confidentiality." You argue, however, the language of section 22.27(a) is written such that the requirement of a promise of confidentiality applies only to information voluntarily disclosed about sales prices. Therefore, you argue although the requested information may

not have disclosed under a promise of confidentiality, the information is nonetheless confidential under section 22.27(a) because it is information submitted by the property owner in connection with the appraisal of property and does not consist of voluntarily disclosed sales price information. After considering your arguments and reviewing the statutory language, we agree the promise of confidentiality requirement in section 22.27(a) pertains only to voluntarily disclosed sales price information. However, after review of the submitted information, we are unable to determine whether the submitted information is required to be included in public appraisal rolls pursuant to section 9.3004 of title 34 of the Texas Administrative Code. *See* 34 T.A.C. § 9.3004(b)(1)-(3) (appraisal records shall contain the name and address of the owner, the legal description of the real property, and the separately taxable estates or interests in real property). Thus, we must rule conditionally. Therefore, if the submitted information is required to be included in public appraisal rolls pursuant to section 9.3004 of title 34, we find it 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). In that instance, the district may not 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 and the submitted information must be released. However, if the submitted information is not required to be included in public appraisal rolls pursuant to section 9.3004 of title 34, based on your arguments and our review, we find the submitted information is confidential under section 22.27(a) of the Tax Code and must be withheld under section 552.101 of the Government Code.

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](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,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 612684

Enc. Submitted documents

c: Requestor  
(w/o enclosures)