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ATTORNEY GENERAL OF TEXAS

January 28, 2016

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

OR2016-02092

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# 595731 (Internal Ref. No. 15-4127).

The Harris County Appraisal District (the "district") received a request for specified information relating to three specified accounts. The district states it will release some of the requested information. The district claims some of the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions the district claims and reviewed the submitted representative sample of information.¹

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. 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

¹We 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.

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). The district states the information it has marked was submitted by the property owner in connection with the appraisal of the property and was provided under a promise of confidentiality. The district states the exceptions in section 22.27(b) do not apply in this instance. Accordingly, we find the information at issue is generally confidential under section 22.27(a). However, a property owner or the owner’s designated agent has a right of access to information that is confidential under section 22.27(a). *See* Attorney General Opinion JC-0424 (2001). In this instance, the requestor may be the authorized representative of the owner of the accounts 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* Tax Code § 22.27(b)(2). Thus, if the requestor does not provide the requisite written authorization under section 22.27(b)(2), then the district must withhold the information it has marked under section 552.101 in conjunction with section 22.27(a). However, if the requestor provides the requisite written authorization pursuant to section 22.27(b)(2), the district may not withhold the information it has marked from this requestor under section 552.101 on that basis.

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. The district states the information it has marked consists of information related to real property sales, descriptions, and characteristics, and it was obtained from private entities. Therefore, we find the information the district has 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, the district does 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 of the remaining information it has 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 it has marked under section 552.149(a) of the Government Code.

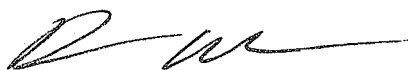
In summary, if the requestor does not provide the requisite written authorization under section 22.27(b)(2), then the district must withhold the information it has marked under section 552.101 in conjunction with section 22.27(a) of the Tax Code. However, if the requestor provides the requisite written authorization pursuant to section 22.27(b)(2), the district must release the information it has marked under section 552.101 on that basis. 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 any of the remaining information it has marked under section 552.149(a) of the Government Code. 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 it has 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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 595731

Enc. Submitted documents

c: Requestor
(w/o enclosures)