



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 16, 2016

Mr. Michael Barnett
Chief Appraiser
Smith County Appraisal District
245 South Southeast Loop 323
Tyler, Texas 75702

OR2016-18491

Dear Mr. Barnett:

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# 622743.

The Smith County Appraisal District (the "district") received a request for data submitted to the appraisal review board at specified hearings for specified properties. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ Additionally, you state release of this information may implicate the proprietary interests of Best Western – Southpark; Candlewood Suites; Fairfield Inn – Marriott ("Fairfield"); Hampton Inn – Tyler; Hawthorn Suites; and La Quinta Inn & Suites – Lindale. Accordingly, you state, and provide documentation showing, you notified these parties 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 exception in the Act in certain circumstances). We have received arguments from Fairfield. We have considered the submitted arguments and reviewed the submitted representative sample of information.² We

¹Although you also raise sections 552.001, 552.002, 552.021, 552.022, and 552.301 of the Government Code, we note these sections are not exceptions to disclosure. *See* Gov't Code §§ 552.001, .002, .021, .022, .301. We note although you raise section 552.107 of the Government Code, you make no argument to support this exception. Therefore, we assume you have withdrawn your claim that this exception applies to the submitted information. *See id.* §§ 552.301, .302.

²We 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.

have also received and considered comments from a requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note Fairfield seeks to withhold information not submitted to this office by the district. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the district, this ruling does not address this information and is limited to the information submitted as responsive by the district.

Next, we address the requestor's assertion the district may not withhold the information at issue because it was produced in an open hearing before the appraisal review board pursuant to section 41.66(d) of the Tax Code. *See* Tax Code § 41.66(d) (except as provided by Subsection (d-1), hearings conducted as provided by chapter 41 of the Tax Code are open to the public). We note section 41.66 applies only to appraisal review boards, and not to appraisal districts. *See id.* § 41.66. Accordingly, we will address the district's argument against disclosure.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 22.27 of the Tax Code, which provides:

(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). The district states the information at issue was provided to the district by the property owners in connection with an appraisal of the owners' property pursuant to section 22.27(a). The district indicates none of the exceptions in section 22.27(b) apply in this instance. Based on these representations and our review, we conclude the district must

withhold the submitted information under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.³

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 622743

Enc. Submitted documents

c: Requestor
(w/o enclosures)

6 Third Parties
(w/o enclosures)

³As our ruling is dispositive, we need not consider Fairfield's argument against disclosure.