



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 22, 2016

Mr. Michael B. Gary
Legal Counsel
Smith County Appraisal District
245 South Southeast Loop 323
Tyler, Texas 75702

OR2016-28335

Dear Mr. Gary:

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# 645171.

The Smith County Appraisal Review Board (the "board") received a request for audio recordings of board hearings for specified properties for 2014 and 2015. You state the board will release some information. You claim the submitted information is subject to a previous request for a ruling. You assert release of the submitted information may implicate the proprietary interests of Best Western, Fairfield Inn, and Hawthorne Inn & Suites ("Hawthorne Inn"). Accordingly, you state, and provide documentation showing, you notified the third parties of the 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 received comments from Fairfield Inn. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

You and Fairfield Inn assert the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-18491 (2016). Upon review, however, we note Open Records Letter No. 2016-18491 was issued to the Smith County Appraisal District (the “district”). The present request for information was addressed to the board. You assert the district and the board are not separate entities for purposes of the Act and, therefore, the board must rely on the previous ruling to the district and withhold the information at issue in accordance with that ruling. However, we note the district and the board are separate entities. *See* Attorney General Opinion DM-462 at 2 n.5 (1997) (“The appraisal district board and appraisal review board are separate entities.” (citing *Towne Square Assocs. v. Angelina County Appraisal Dist.*, 709 S.W.2d 776, 778 (Tex. App.—Beaumont 1986, no writ); *Corchine P’ship v. Dallas County Appraisal Dist.*, 695 S.W.2d 734, 735 (Tex. App.—Dallas 1985, writ ref’d n.r.e))). Accordingly, the board may not rely on Open Records Letter No. 2016-18491 as a previous determination in this instance. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely the same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note the responsive information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2016-25410 (2016). In that ruling, we determined the board must release the submitted information because it was produced at open hearings, rather than closed hearings. *See* Tax Code §§ 22.27(a) (making confidential certain information owner of property provides to appraisal office in connection with appraisal of property), 41.66(d-2) (providing information produced at a closed hearing is confidential). There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Thus, we conclude the board must continue to rely on Open Records Letter No. 2016-25410 as a previous determination and release the identical information in accordance with that information. *See* ORD 673.¹

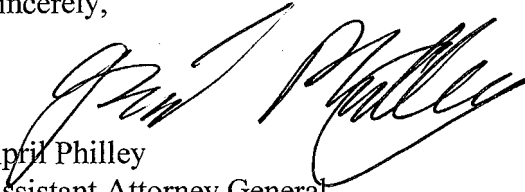
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹As our ruling is dispositive, we need not address the remaining arguments 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,



April Philley
Assistant Attorney General
Open Records Division

AP/akg

Ref: ID# 645171

c: Requestor

3 Third Parties