



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 31, 2017

Ms. Kristen Lee
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2017-06715

Dear Ms. Lee:

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# 651538 (CA File No. 17PIA0014).

The Harris County Appraisal Review Board (the "board") received a request for the evidence presented at a specified hearing. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have also received comments from the requestor. *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 submitted arguments and reviewed the submitted 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." *Id.* § 552.101. This section encompasses information other statutes make confidential. Section 41.66 governs the hearing procedures of appraisal review boards and provides in relevant part:

(d) Except as provided by Subsection (d-1), hearings conducted as provided by this chapter are open to the public.

...

(f) A member of the appraisal review board may not communicate with another person concerning:

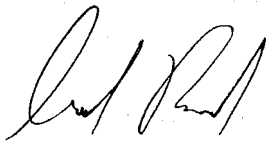
- (1) the evidence, argument, facts, merits, or any other matters related to an owner's protest, except during the hearing on the protest; or
- (2) a property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties.

Tax Code § 41.66(d), (f). You indicate the submitted information was presented at a hearing of the board conducted pursuant chapter 41 of the Tax Code that was open to the public. *See id.* § 41.66(d). You argue the board may not release the submitted information because doing so would be a violation of section 41.66(f). For information to be confidential under section 552.101, the provision of law must explicitly require confidentiality. A confidentiality requirement will not be inferred from a provision's structure. *See Open Records Decision Nos. 658 at 4 (1998) (stating that statutory confidentiality provision must be express and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (stating that, as general rule, statutory confidentiality requires express language making information confidential), 465 at 4-5 (1987).* Although section 41.661(f) prohibits members of the board from communicating with another person regarding certain information pertaining to protest hearings, we determine section 41.66(f) does not expressly provide for the confidentiality of information. Thus, the submitted information may not be withheld under section 552.101 on that basis. As no further exceptions to disclosure have been raised, the board must release the submitted 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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/sdk

Ref: ID# 651538

Enc. Submitted documents

c: Requestor
(w/o enclosures)