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ATTORNEY GENERAL OF TEXAS

September 1, 2017

Mr. Joseph T. Longoria
Counsel for the Montgomery Central Appraisal District
Perdue, Brandon, Fielder, Collins & Mott, LLP
1235 North Loop West, Suite 600
Houston, Texas 77008

OR2017-20021

Dear Mr. Longoria:

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# 673748.

The Montgomery Central Appraisal District (the "district"), which you represent, received a request for 1) information pertaining to Appraisal Review Board members; 2) a list of property owners that protested their appraisal value; 3) specified employee information; and 4) specified e-mail correspondence. We understand the district is withholding e-mail addresses of members of the public under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You state you are releasing some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code.² We have considered the exceptions the district claims and reviewed the submitted representative sample of information. We have also

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision.

²We note the district did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because sections 552.101 and 552.107 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

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

Initially, we note the information we have marked is not responsive to the instant request because it was created after the date of the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release such information in response to this request.

Next, we note you have only submitted information responsive to categories two and four of the request. Although you state the district submitted a representative sample of information, the submitted information is not representative of all types of information requested. Thus, we find the submitted responsive information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information you have submitted for our review. This ruling does not authorize the district to withhold any information that is substantially different from the types of information you submitted to this office. *See id.* § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any additional information existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes. Section 25.025 of the Tax Code states, in pertinent part:

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if:

(1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual:

(A) chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07; or

(B) is a federal or state judge as defined by section 572.002, Government Code, or the spouse of a federal or state judge, beginning on the date the Office of the Court Administration of the Texas Judicial System notified the appraisal district of the judge's qualification for the judge's office.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address.

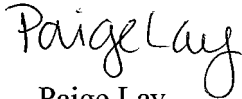
See Act of May 23, 2017, 85th Leg., R.S., S.B. 42, § 26 (to be codified as an amendment to Tax Code § 25.025(b)); Tax Code § 25.025(c)-(d). Section 25.025(a) sets forth certain categories of individuals who are authorized to make an election of confidentiality pursuant to section 25.025(b). *See* Act of May 9, 2017, 85th Leg., R.S., S.B. 256, § 7 (to be codified as an amendment to Tax Code § 25.025(a)); Act of May 23, 2017, 85th Leg., R.S., S.B. 510, § 1 (to be codified at Tax Code § 25.025(a)); Act of May 30, 2017, 85th Leg., R.S., H.B. 457, § 1 (to be codified as an amendment to Tax Code § 25.025(a)). Section 25.02 of the Tax Code prescribes the information that must be contained within appraisal records. *See id.* § 25.02. This information includes the name and address of the owner of the property. *See id.* § 25.02(a)(1). The district asserts, and we agree, the submitted information contains the information required to be contained in appraisal records under section 25.02 of the Tax Code. Thus, we conclude the submitted information consists of an appraisal record for purposes of section 25.025(b) of the Tax Code.

The submitted document reveals the owner of the property at issue is an individual subject to section 25.025(a)(1) who filed a request for confidentiality pursuant to section 25.025 of the Tax Code. The district states the owner has not rescinded the request for confidentiality. Accordingly, we conclude the information the district has marked is confidential under section 25.025(b) of the Tax Code, and the district must withhold it under section 552.101 on that basis. *See* Act of May 23, 2017, 85th Leg., R.S., S.B. 42, § 26 (to be codified as an amendment to Tax Code § 25.025(b)). The remaining responsive information must be released.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 673748

Enc. Submitted documents

c: Requestor
(w/o enclosures)