



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 16, 2017

Ms. Diane K. McCarthy
Legal Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2017-23467

Dear Ms. McCarthy:

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# 680444 (HCAD Reference No. 17-3362).

The Harris County Appraisal District (the "district") received a request for information pertaining a specified account. You state some information will be made available to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.149 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

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

¹We note the district did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nevertheless, because sections 552.101 and 552.149 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will consider the applicability of these sections to the submitted information. *See id.* §§ 552.007, .302, .352.

²We assume that 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.

Code § 552.101. This section encompasses information protected by other statutes. Section 22.27(a) of the Tax Code provides the following:

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). You represent the information you have marked was furnished to the district by a property owner in connection with the appraisal of the owner’s personal property. You state none of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b). Based on your representations and our review, we find the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

The district also claims section 552.149 of the Government Code for portions of the remaining information. Section 552.149 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 at issue includes “documents that contain information relating to real property sales, descriptions, characteristics, and other information provided to the [district] by a private entity.” You indicate the information at issue does not contain information to which the requestor has a right of access pursuant to section 552.149(b). *See id.* § 552.149. Based on your representations and our review, we find the district must withhold the information you have marked under section 552.149(a) of the Government Code.

In summary, the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. The district must withhold the information you have 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,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/sb

Ref: ID# 680444

Enc. Submitted documents

c: Requestor
(w/o enclosures)