



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2017

Mr. Mel Davis
Special Projects Coordinator
Texas State Soil and Water Conservation Board
1497 Country View Lane
Temple, Texas 76504-8806

OR2017-25302

Dear Mr. Davis:

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# 685903.

The Texas State Soil and Water Conservation Board (the "board") received a request for information pertaining to named entities. The board states it does not have some of the requested information.¹ The board claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *See generally Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

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 those records contain substantially different types of information than that submitted to this office.

Code § 552.101. This section encompasses section 201.006(a) of the Agriculture Code, which reads as follows:

(a) Except as provided by this section, information collected by the . . . board or a conservation district is not subject to [the Act] and may not be disclosed if the information is collected in response to a specific request from a landowner or the landowner's agent or tenant for technical assistance relating to a water quality management plan or other conservation plan if the assistance is to be provided:

(1) under this code; and

(2) on private land that:

(A) is part of a conservation plan or water quality management plan developed cooperatively with the state board or conservation district; or

(B) is the subject of a report prepared by the state board or conservation district.

Agric. Code § 201.006(a). The board represents it collected the submitted information in response to a request for technical assistance from a landowner relating to a conservation or water quality management plan on that landowner's private land, and provided that assistance under chapter 201 of the Agricultural Code. The exceptions in section 201.006(b) do not appear to apply. Based on these representations and our review, we agree the board must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 201.006(a) of the Agriculture Code.³

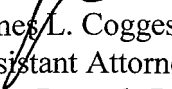
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

³We note section 201.006(c) provides the state board or conservation district has the option of disclosing "in a manner that prevents the identification of a particular tract of land, the owner of the tract, or the owner's agent or tenant, a summary of information collected by the state board or conservation district" concerning certain types of information. Agric. Code § 201.006(c).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tdw

Ref: ID# 685903

Enc. Submitted documents

c: Requestor
(w/o enclosures)