



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 6, 2017

Mr. Roy L. Armstrong  
Counsel for the Hill County Appraisal Review Board  
Armstrong & Armstrong  
218 Beimer Street  
Taos, New Mexico 87571

OR2017-25364

Dear Mr. Armstrong:

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# 683195.

The Hill County Appraisal Review Board (the "board"), which you represent, received a request for all e-mails sent and received by a specified e-mail address during a specified time period. You state the board will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of MPT of Hillsboro, LP ("MPT"). Accordingly, you state MPT was notified of the request for information and of its 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 reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from MPT explaining why the submitted information should not be released. Accordingly, we have no

basis to conclude MPT has a protected proprietary interest in the submitted information, and the board may not withhold any portion of it on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3.

You assert the information at issue is confidential under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code.<sup>1</sup> You inform us the information at issue was presented at an open board hearing conducted pursuant to section 41.66(d) of the Tax Code. 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.

(d-1) Notwithstanding Chapter 551, Government Code, the appraisal review board shall conduct a hearing that is closed to the public if the property owner or the chief appraiser intends to disclose proprietary or confidential information at the hearing that will assist the review board in determining the protest. The review board may hold a closed hearing under this subsection only on a joint motion by the property owner and the chief appraiser.

(d-2) Information described by Subsection (d-1) is considered information obtained under Section 22.27.

Tax Code § 41.66(d)-(d-2). Section 41.66(d) provides hearings conducted pursuant to chapter 41 of the Tax Code are open to the public. *See id.* § 41.66(d). However, in response to a joint motion by the property owner and the chief appraiser, the board must conduct a closed hearing. *See id.* § 41.66(d-1). Information produced at a closed hearing is confidential pursuant to section 22.27 of the Tax code. *See id.* § 41.66(d-2); *see also id.* § 22.27(a) (making confidential certain information owner of property provides to appraisal office in connection with appraisal of property). Although you claim the submitted information is confidential under section 22.27(a), we note the information is not confidential under section 22.27 because it was produced at an open hearing rather than a closed hearing. *See id.* § 41.66(d-1)-(d-2). Therefore, the board may not withhold information presented at an open board hearing under section 22.27 of the Tax Code. Consequently, the board must release the submitted information.

---

<sup>1</sup>Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes, such as section 22.27 of the Tax Code.

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](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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/tdw

Ref: ID# 683195

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)