



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 11, 2017

Mr. Joseph T. Longoria
Counsel for El Paso Central Appraisal District
Purdue Brandon Fielder Collins & Mott
1235 North Loop West, Suite 600
Houston, Texas 77008

OR2017-28050

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# 687095.

The El Paso Central Appraisal District (the "district"), which you represent, received a request for appraisals prepared by two named individuals during a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We understand release of this information may implicate the proprietary interests of Camelback Management Corporation, Hotel Don Quixote, Ltd., and Western Refining. Accordingly, you state you notified the third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 received comments from Western Refining. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹ We have also received and considered comments

¹We 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.

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).

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 protected by other statutes, such as section 22.27 of the Tax Code, which states in pertinent part:

(a) 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). The district argues the submitted information is confidential under section 22.27(a). We understand the district is an appraisal office for purposes of section 22.27. The district states the information at issue consists of information provided by property owners under a promise of confidentiality. The district does not indicate any of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b). However, the district does not inform us which portions of the information at issue were provided by property owners. Thus, we must rule conditionally. To the extent any of the submitted information was provided by property owners in connection with an appraisal, including sales price information obtained under a promise of confidentiality, the district must withhold such information under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code.² However, to the extent any of the submitted information was not provided by property owners in connection with an appraisal, the information is not confidential under section 22.27(a) of the Tax Code and the district may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.149 provides, in relevant part, as follows:

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

(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 El Paso County has a population of 50,000 or more. You state the information at issue includes information related to real property sales prices, descriptions, characteristics, and other related information received from a private entity. You state the requestor does not have a right of access to this information pursuant to section 552.149(b). *See id.* § 552.149(b). Accordingly, based on your representations and our review, we find the district must withhold the remaining information under section 552.149(a) of the Government Code.³

In summary, to the extent any of the submitted information was provided by property owners in connection with an appraisal, including sales price information obtained under a promise of confidentiality, the district must withhold such information under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code. The district must withhold the remaining information under section 552.149(a) of the Government 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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

³As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Jahna Ward', with a stylized flourish at the end.

Jahna Ward
Assistant Attorney General
Open Records Division

JW/tdw

Ref: ID# 687095

c: Requestor

3 Third Parties