



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 22, 2019

Mr. Dustin Banks
In-House Counsel
Travis Central Appraisal District
P.O. Box 149012
Austin, Texas 78714

OR2019-19865

Dear Mr. Banks:

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# 775360 (ORR# 16056).

The Travis Central Appraisal District (the "district") received a request for information related to assessments of five specified properties.¹ The district states it is releasing some of the requested information. The district claims the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions the district claims 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 district states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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 information protected by section 23.123 of the Tax Code, which provides, in relevant part:

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by Section 23.121 or Section 23.122 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

Tax Code § 23.123(b). Thus, section 23.123(b) makes confidential a declaration or a statement filed pursuant to section 23.121 or section 552.122 of the Tax Code. Section 23.121 of the Tax Code, which applies to the valuation of a dealer's motor vehicle inventory, provides a "declaration" means a "dealer's motor vehicle inventory declaration form promulgated by the comptroller as required by this section." *See id.* § 23.121(a)(6); *see also id.* §§ 23.122(a)(5) ("Declaration" has meaning given it in section 23.122 of Tax Code), .123(a)(4) ("Declaration" has meaning given it in section 23.122 of Tax Code). Further, section 23.122, which applies to the taxation of an owner's motor vehicle inventory, provides a "statement" means the Dealer's Motor Vehicle Inventory Tax Statement filed on a form promulgated by the comptroller as required by section 23.122. *See id.* §23.122(a)(9); *see also id.* § 23.123(a)(6) ("Statement" has meaning given it in section 23.122 of Tax Code). Upon review, we find the district has not demonstrated any portion of the submitted information consists of declarations or statements filed under section 23.121 or section 23.122 of the Tax Code. Thus, the district has failed to demonstrate any of the submitted information is confidential under section 23.123 of the Tax Code, and the district may not withhold any portion of the information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses 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). The district states it is an appraisal office for purposes of section 22.27. The district states the submitted information “consists of documents generated using information obtained from property owners under a promise of confidentiality.” However, the district does not inform us which portions of the submitted information were provided by property owners in connection with the appraisal of property. The district also does not inform us any of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b). Thus, to the extent any of the submitted information was furnished to the district by property owners in connection with the appraisal of property, we find the information is confidential under section 22.27(a) of the Tax Code and must be withheld under section 552.101 of the Government Code. However, to the extent the submitted information was not furnished by property owners in connection with the appraisal of property, the information is not confidential under section 22.27(a) of the Tax Code and may not be withheld under section 552.101 of the Government Code on that basis.

Next, the district claims section 552.149 of the Government Code for any 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 Travis County has a population of 50,000 or more. The district states any remaining information “includes documents containing information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity.” The district states the requestor is not an owner or an agent of an owner of the properties at issue and informs us there is no pending protest before the Travis Appraisal Review Board. Therefore, we find to the extent any remaining information relates to real property sales and was provided to the district by private entities, it must be withheld under section 552.149(a) of

the Government Code. However, to the extent any remaining information does not relate to real property sales or was not provided to the district by private entities, it may not be withheld under section 552.149 of the Government Code.

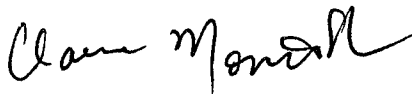
We note portions of any remaining information are subject to section 552.130 of the Government Code.³ Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the district must withhold all visible license plates in the submitted photographs under section 552.130 of the Government Code.

In summary, to the extent any of submitted information was furnished to the district by property owners in connection with the appraisal of property, the district must withhold that information under section 552.101 in conjunction with section 22.27(a) of the Tax Code. To the extent any remaining information relates to real property sales and was provided to the district by private entities, the district must withhold that information under section 552.149(a) of the Government Code. The district must withhold all visible license plates in the submitted photographs under section 552.130 of the Government Code. Any remaining 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/be

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 775360

c: Requestor