



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 10, 2020

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

OR2020-03963

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# 810135.

The El Paso Central Appraisal District (the "district"), which you represent, received a request for a performance evaluation pertaining to the district's chief appraiser. You state the district released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the information.

Initially, we understand you to assert the submitted information is confidential because of confidentiality conferred upon it by an employment contract between the district and the district's chief appraiser. We note information is not confidential under the Act simply because the party that submits the information anticipates or requests that it be kept confidential. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot overrule or repeal provisions of the Act through an agreement or contract. See Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 541 at 3 (1990) ("[T]he obligations of a governmental body under [the Act] cannot be compromised simply by its decision to enter into a contract."), 203 at 1 (1978) (mere expectation of confidentiality by person supplying information does not

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<sup>1</sup> Although you also raise sections 552.102, 552.107, and 552.111 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information. See Gov't Code §§ 552.301, .302.

satisfy requirements of statutory predecessor to section 552.110). Consequently, unless the information at issue falls within an exception to disclosure, it must be released, notwithstanding any expectation or agreement to the contrary.

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 Code § 552.101. You raise section 552.101 in conjunction with section 551.074 of the Open Meetings Act. Section 551.074 allows a governmental body to conduct certain deliberations about employees in an executive session. *Id.* § 551.074. However, this provision does not make information confidential for purposes of section 552.101 of the Government Code. *See* Open Records Decision No. 478 (1987) (as general rule, statutory confidentiality requires express language making information confidential). Thus, the district may not withhold any of the submitted information under section 552.101 in conjunction with section 551.074 of the Government Code. The district must release the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/gw

Ref: ID# 810135

c: Requestor