



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 20, 2020

Mr. Mel Davis  
Policy Advisor/ Special Project Coordinator/ Open Records Coordinator  
Texas State Soil and Water Conservation Board  
1497 Country View Lane  
Temple, Texas 76504-8806

OR2020-08797

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# 818759.

The Texas State Soil and Water Conservation Board (the "board") received two requests from different requestors for information pertaining to chicken farms in a specified area.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 201.006(a) of the Agriculture Code, which provides:

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<sup>1</sup> As you have not submitted a copy of the first written request for information, we take our description of the request from your brief. Accordingly, we note the board did not comply with section 552.301 of the Government Code in requesting a ruling from this office for the first request. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

<sup>2</sup> We 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.

(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. We have no indication the exceptions in section 201.006(b) 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.

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,

Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/rm

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Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)