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ATTORNEY GENERAL OF TEXAS

April 8, 2020

Mr. Tyler McCarty
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McCreary, Veselka, Bragg & Allen, P.C.
700 Jeffrey Way, Suite 100
Round Rock, Texas 78665-2417

OR2020-10536

Dear Mr. McCarty:

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# 820659.

The Fort Bend Central Appraisal District (the "district"), which you represent, received a request for information pertaining to two specified properties. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

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. Section 552.101 encompasses information protected by other statutes. Section 25.025 of the Tax Code states, pertinent part:

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if:

(1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual:

¹ We note, and you acknowledge, the district did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the claimed exception 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.

(A) chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07; or

(B) is a federal or state judge as defined by section 572.002, Government Code, or the spouse of a federal or state judge, beginning on the date of the Office of Court Administration of the Texas Judicial System notifies the appraisal district of the judge's qualification for the judge's office.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address.

Tax Code § 25.025(b)-(d). Section 25.025(a) sets forth certain categories of individuals who are authorized to make an election of confidentiality pursuant to section 25.025(b). *See id.* § 25.025(a). You state the individual whose information is at issue did not make an election of confidentiality pursuant to section 25.025(b). Upon review, we find you have failed to demonstrate the submitted information is confidential for the purposes of section 25.02. Accordingly, the district may not withhold the submitted information under section 552.101 in conjunction with section 25.025.

Section 552.1175 provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(1), (b).² Some of the submitted information relates to a licensed peace officer but the information is not held in an employment context. Accordingly, if the peace officer whose information is at issue elects to restrict access to the information in accordance with section 552.1175(b), the district must withhold the information we marked under section 552.1175 of the Government Code. Conversely, if the peace officer does not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail address at issue is not excluded by subsection (c). Therefore, the district must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure.

In summary, if the peace officer whose information is at issue elects to restrict access to the information in accordance with section 552.1175(b), the district must withhold the information we marked under section 552.1175 of the Government Code. The district must withhold the personal e-mail address we marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its public disclosure. The district must release the remaining 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,

Katie Stallcup
Attorney
Open Records Division

AKS/jxd

² The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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Enc. Submitted documents

c: Requestor
(w/o enclosures)