



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 24, 2020

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

OR2020-18544

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# 836301 (PIR No. 18637).

The Travis Central Appraisal District (the "district") received a request for sales information for specified years for each property account.¹ You state you have released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.² We have also received and considered comments from an attorney representing the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹ We note the district 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 when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

² 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 that those records contain substantially different types of information than that submitted to this office.

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. Section 22.27 of the Tax Code provides, in part, the following:

(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). You state the district is an “appraisal office” for purposes of section 22.27(a). You state the information at issue consists of property sales information provided to the district by property owners pursuant to section 22.27(a) under a promise of confidentiality. Further, you state none of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b)(2). Based on your representations and our review, we find the district must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code.

Section 552.149 of the Government Code provides, in relevant part, as follows:

(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). Sections 552.149(a) and (b) are limited to those counties having a population of 50,000 or more. *Id.* § 552.149(e). You state Travis County has a population of 50,000 or more. You state the information at issue consists of sales information that was provided to the district by a private entity under confidentiality. Upon review, we find the information at issue is generally confidential under section 552.149(a). However, pursuant to section 552.149(b), a property owner or the owner's designated agent has a right of access to certain information that is otherwise confidential under section 552.149(a). You state the requestor represents several property owners in pending protests of the valuation of their properties by the district. Thus, the requestor may have a right of access to certain information under section 552.149(b) of the Government Code.

As stated above, subsection (b) provides a property owner or the owner's agent a right of access to information described by section 41.461(a)(2) of the Tax Code, information the chief appraiser took into consideration during the appraisal but does not plan to introduce at the hearing on the protest, and comparable sales data from a reasonable number of sales that is relevant to the matter to be determined by the appraisal board. We note section 552.149(b) applies solely to pending protest hearings before an appraisal review board.

You contend the information at issue does not contain information to which the requestors have a right of access pursuant to section 552.149(b). *See id.* § 552.149. However, we find if any of the information at issue pertains to properties for which the district's valuation is under protest by the property owners the requestors represent, then to the extent such information is responsive to the request, the district must release each item of information described by section 41.461(a)(2) of the Tax Code, a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearings on the protests, and 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 hearings on the property owners' protests. Conversely, if none of the information at issue pertains to property for which the district's valuation is under protest by the requestor's clients, then the information at issue must be withheld under section 552.149(a) of the Government Code.

In summary, the district must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code. If none of the information at issue pertains to property for which the district's valuation is under protest by the requestor's clients, then the information at issue must be withheld under section 552.149(a) of the Government Code. 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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/gw

Ref: ID# 836301

c: Requestor