



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 23, 2022

Mr. Michael B. Gary
Chief Legal and Compliance Officer
Fort Bend Central Appraisal District
2801 B.F. Terry Boulevard
Rosenburg, Texas 77471-5600

OR2022-17935

Dear Mr. Gary:

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# 955837 (Ref. No. 2022-0024).

The Fort Bend Central Appraisal District (the "district") received a request for information related to the appraisal or assessment of district properties. You claim some of 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.¹

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 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

¹ 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.

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 also state the information at issue was provided by a property owner in connection with an appraisal of property. Further, you state the requestor has not provided the required authorization to establish a right of access to the information at issue; thus, the exceptions in section 22.27(b) do not apply in this instance. *See id.* § 22.27(b)(2). Based upon your representations and our review, we find the district must withhold Exhibit 3 under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code.

Section 552.101 of the Government Code also encompasses section 25.025 of the Tax Code, which provides, in pertinent part, the following:

(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:

(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, or the spouse of a federal or state judge, beginning on the date 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.

Id. § 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). *Id.*

§ 25.025(a). You inform us some of the remaining information is subject to section 25.025. Upon review, to the extent a property owner to whom section 25.025 applies has filed a request for confidentiality on the form prescribed under section 5.07 and has not revoked it, the district must withhold the owner's name within Exhibit 4 under section 552.101 of the Government Code in conjunction with section 25.025 of the Tax Code. If a property owner is not an individual to whom section 25.025 applies or if no election is made, the district may not withhold any of the remaining information under section 552.101 on that basis.

Section 552.101 of the Government Code also encompasses section 25.026 of the Tax Code, which provides the following:

(a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003, Government Code.

(3) "Victims of trafficking shelter center" means a program that:

(A) is operated by a public or private nonprofit organization;
and

(B) provides comprehensive residential and nonresidential services to victims of trafficking of persons under Section 20A.02, Penal Code.

(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 the information identifies the address of a family violence shelter center, a sexual assault program, or a victims of trafficking shelter center.

Id. § 25.026. You assert Exhibit 5 identifies the address of a family violence shelter center, a sexual assault program, or a victims of trafficking shelter center subject to section 25.026 of the Tax Code. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 25.026 of the Tax Code. However, the remaining information is not confidential under section 25.026, and the district may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.149 of the Government Code 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). You state the information at issue pertains to real property sales prices, descriptions, characteristics, and other related information received from a private entity. You also state the requestor is not an owner or an agent of the property at issue. Upon review, we find you have demonstrated the applicability of section 552.149 to the information at issue. Thus, the district must withhold Exhibit 2 under section 552.149(a) of the Government Code.

In summary, the district must withhold Exhibit 3 under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code. To the extent a property owner to whom section 25.025 applies has filed a request for confidentiality on the form prescribed under section 5.07 and has not revoked it, the district must withhold the owner's name within Exhibit 4 under section 552.101 of the Government Code in conjunction with section 25.025 of the Tax Code. The district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 25.026 of the Tax Code. The district must withhold Exhibit 2 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,

Alexandra C. Burks
Assistant Attorney General
Open Records Division

ACB/jm

Mr. Michael B. Gary - Page 5

Ref: ID# 955837

Enc. Submitted documents

c: Requestor
(w/o enclosures)