



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2022

Ms. S. Michelle King
Counsel for the McLennan County Appraisal District
McCreary, Veselka, Bragg & Allen, P.C.
PO Box 1269
Round Rock, Texas 78680-1269

OR2022-23151

Dear Ms. King:

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# 964113.

The McLennan County Appraisal District (the "district") received a request for certain information pertaining to six specified property account numbers, including appraisal and comparable sales information, as well as information pertaining to the district's methodologies for the appraisal of land value and improvements. You state the district will release some information to the requestor.¹ 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.²

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, such as section 22.27 of the Tax Code, which provides, in relevant part:

¹ A governmental body's officer for public information may comply with the requirement to promptly produce public information "by referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the governmental body and accessible to the public if the requested information is identifiable and readily available on that website." *See* Gov't Code § 552.221(b-1).

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

(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). We understand the district is an “appraisal office” for purposes of section 22.27(a). You state the information you marked within the information submitted as Exhibit B was provided by property owners in connection with appraisals of properties. Further, you indicate 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 the information you marked 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:

(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 you marked within Exhibit C pertains to real property sales prices received from a private entity. You also indicate 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.

Accordingly, the district must withhold the information you marked under section 552.149(a) of the Government Code.

We note some of the remaining information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code. The district must withhold the information you marked under section 552.149(a) of the Government Code. The district must release the remaining information; however, any information subject to copyright may only be released in accordance with copyright law.

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/be

Ref: ID# 964113

Enc. Submitted documents

c: Requestor
(w/o enclosures)