



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 8, 2022

Ms. Yesica Antu-Sanchez
Records Management Officer
Bexar Appraisal District
411 North Frio Street
San Antonio, Texas 78207

OR2022-27369

Dear Ms. Antu-Sanchez:

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# 970941 (Work Order # 22-21519).

The Bexar Appraisal District (the "district") received a request for information pertaining to two specified properties.¹ You state you will redact motor vehicle record information pursuant to section 552.130(c) of the Government Code.² You state the district has 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 information.

¹ We note the district asked for and received clarification regarding this request. *See Gov't Code* § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redact such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

Section 552.101 of the Government Code excepts from 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 states in pertinent part:

(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). The district argues some of the submitted information, which the district marked, is confidential under section 22.27(a). The district states it is an appraisal office for purposes of section 22.27. The district states the marked information “consists of documents generated using information obtained from property owners under a promise of confidentiality.” However, the district does not inform us which portions of the marked information were provided by property owners in connection with the appraisal of property. The district also does not inform us any of the exceptions in section 22.27(b) apply in this instance. *See id.* § 22.27(b). Thus, to the extent any of the information the district marked was furnished to the district by property owners in connection with the appraisal of property, we find the information is confidential under section 22.27(a) of the Tax Code and must be withheld under section 552.101 of the Government Code. However, to the extent the information was not furnished by property owners in connection with the appraisal of property, the information is not confidential under section 22.27(a) of the Tax Code and may not be withheld under section 552.101 of the Government Code on that basis.

Next, the district claims section 552.149 of the Government Code for any remaining information it marked. Section 552.149 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). The district states any remaining information it marked "includes sales information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity[.]" The district states the requestor is not an owner or an agent of an owner of the properties at issue and informs us there is no pending protest before the Bexar Appraisal Review Board. Therefore, we find to the extent any remaining information the district marked relates to real property sales and was provided to the district by private entities, it must be withheld under section 552.149(a) of the Government Code. However, to the extent any remaining information the district marked does not relate to real property sales or was not provided to the district by private entities, it may not be withheld under section 552.149 of the Government Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Thus, the district must withhold the public citizen's date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent any of information the district marked was furnished to the district by property owners in connection with the appraisal of property, the district must withhold that information under section 552.101 in conjunction with section 22.27(a) of the Tax Code. To the extent any remaining information the district marked relates to real property sales and was provided to the district by private entities, the district must withhold that information under section 552.149(a) of the Government Code. The district must withhold the public citizen's date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/jxd

Ref: ID# 970941

Enc. Submitted documents

c: Requestor
(w/o enclosures)