



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 19, 2022

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

OR2022-28742

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# 972286 (Ref. No. 2022-0028).

The Fort Bend Central Appraisal District (the "district") received a request for certain information pertaining to district properties. You claim the requested information is excepted from disclosure under section 552.149 of the Government Code. We have considered the exception you claim.

Initially, we note some of the requested information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2022-17935 (2022). In that ruling, we concluded the district must: (1) withhold certain information under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code; (2) withhold certain information under section 552.101 of the Government Code in conjunction with section 25.025 of the Tax Code; (3) withhold certain information under section 552.101 of the Government Code in conjunction with section 25.026 of the Tax Code; (4) withhold certain information under section 552.149 of the Government Code; and (5) release the remaining information at issue. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2022-17935 was based have changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, the district must continue to rely on Open Records Letter No. 2022-17935 as a previous determination and withhold or release the identical information in accordance with that ruling.¹ See Open

¹ In that instance, as we are able to make this determination, we need not address your argument against disclosure of this information.

Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the previous ruling, we will consider your argument against its disclosure.

Next, we must address the district's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). In this instance, the district received the present request for information on July 7, 2022. As of the date of this letter, the district has not submitted for our review comments stating why the claimed exception applies or a copy or representative sample of the information requested. Consequently, we find the district has failed to comply with the requirements of section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although you assert the requested information is excepted from disclosure under section 552.149 of the Government Code, because the district has not submitted the requested information for our review, we have no basis for finding any of the remaining requested information at issue excepted from disclosure. Thus, we have no choice but to order the remainder of the requested information released pursuant to section 552.302 of the Government Code. If you believe the information may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, the district must continue to rely on Open Records Letter No. 2022-17935 as a previous determination and withhold or release the identical information in accordance with that ruling. The district must release the remainder of the requested information pursuant to section 552.302 of the Government Code.

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/jxd

Ref: ID# 972286

c: Requestor