



June 12, 2001

Mr. Sands L. Stiefer  
Chief Deputy/General Counsel  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-9075

OR2001-2479

Dear Mr. Stiefer:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148281.

The Harris County Appraisal District (the "district") received a request for "a copy of the 2001 Harris County Residential Sales Information." You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>You also raise section 552.110 as an exception to disclosure. However, neither you nor any third party makes specific arguments applying this exception to the requested information. Therefore, we have no basis to conclude that the requested information is excepted from disclosure under section 552.110. See Gov't Code § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

<sup>2</sup>We assume that 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 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. You contend that some of the requested information is made confidential by section 22.27 of the Tax Code. Section 22.27 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.
  
- (b) Information made confidential by this section may be disclosed:
  - ...
  - (5) for statistical purposes if in a form that does not identify specific property or a specific property owner ... .

Tax Code § 22.27(a), (b) (emphasis added). You indicate that the requested information identifies residential properties that sold during the year 2001 and gives the sales price of the properties. You further indicate that the sales price of some of the properties was provided upon a promise by the district that it would keep the information confidential. *See* Open Records Decision Nos. 514 (1988), 479 (1987), 444 (1986) (stating unless a governmental body is explicitly authorized by statute to make an enforceable promise to keep information confidential, it may not do so). Therefore, it appears that the sales price of some of the listed properties is confidential under section 22.27 of the Tax Code. You contend that because section 22.27(b) allows for the release of such confidential information for statistical purposes if the identification of the property and owner are not disclosed, it would be appropriate for the district to release the sales prices of the affected properties with the identities of the properties redacted. To the extent you have determined that the requested information will be used for statistical purposes, we agree that you may disclose the sales prices that are otherwise confidential if you redact any identifying information of the relevant property and owner. *See* Tax Code § 22.27(b).<sup>3</sup>

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<sup>3</sup>You further ask this office to issue a previous determination that would allow you to withhold property sales information covered by section 22.27(a) of the Tax Code from future requestors. *See* Open Records Decision No. 673 (2001). However, we decline to issue such a ruling at this time.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/sdk

Ref: ID# 148281

Enc: Submitted documents

c: Ms. Janice W. Phillips  
Property Tax Manager  
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(w/o enclosures)