



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2005

Mr. Jim Robinson
Chief Appraiser
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2005-10235

Dear Mr. Robinson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 236402.

The Harris County Appraisal District (the "district") received a request for documents relating to the River Oaks Country Club (the "club"). You claim that a portion of the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that you have only submitted an independent appraisal report for our review. As you have not submitted the other requested information for our review, we assume you have released it to the extent it existed on the date the district received the request. If you have not released any such records, you must release them to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible under circumstances).

Next, we must address the district's obligations under section 552.301(e) of the Government Code. Pursuant to section 552.301(e), the governmental body must, within fifteen business days of receiving the request, submit to this office 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. Gov't Code § 552.301(e)(1)(A)-(D). You state that the district received the written request for information on August 30, 2005. The district was therefore required to submit a copy of the specific information requested by September 21, 2005. The district, however, did not submit a copy of the specific information requested until September 30, 2005. Consequently, the district failed to comply with the procedural requirements of section 552.301 of the Government Code. *Id.* § 552.301(e)(1)(D).

Pursuant to section 552.302, a governmental body's failure to comply with section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). Normally, a compelling reason for non-disclosure exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because section 552.101 of the Government Code can provide a compelling reason for non-disclosure, we will consider your arguments under that section.

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. Section 22.27 of the Tax Code provides in relevant 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 submitted documents contain information about specific real or personal property and property owners. You state that the information at issue was obtained

pursuant to an agreement of confidentiality. Upon careful review of your arguments and the information at issue, we agree that the submitted appraisal report is confidential under section 22.27(a) of the Tax Code. Based on the submitted information, we are unable to conclude that an exception to confidentiality in subsection (b) is applicable. Therefore, the district must withhold this information in its entirety under section 552.101 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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,



Lisa V. Cubriel
Assistant Attorney General
Open Records Division

LVC/segh

Ref: ID# 236402

Enc: Submitted documents

c: Mr. Jeremy Rogalski
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(w/o enclosures)