



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 20, 2006

Ms. Deborah S. Cartwright  
General Counsel  
Bexar Appraisal District  
P.O. Box 830248  
San Antonio, Texas 78283-0248

OR2006-12433

Dear Ms. Cartwright:

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# 262571.

The Bexar Appraisal District (the "district") received a request for the 2005 rendition regarding a specific account and parcel address.<sup>1</sup> You claim that the requested information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. Section 22.27(a) of the Tax Code provides the following:

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

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<sup>1</sup>You inform us that the district sought and received clarification from the requestor. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

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 that the district is an “appraisal office” for purposes of section 22.27. You assert that Exhibit C is confidential under section 22.27 as information provided to the district by the property owner’s designated agent in connection with the appraisal of the property.<sup>2</sup> The requestor, however, states that it is currently the “managing agent for the property pursuant to contract” and submitted a copy of its management agreement with the property owner together with its request for information. Thus, we understand the requestor to assert a right of access to the information at issue.

Section 22.27(b) provides that “information made confidential by this section may be disclosed to the person who filed the statement or report or the owner of property subject to the statement, report, or information, or to a representative of either authorized in writing to receive the information[.]” Tax Code § 22.27(b)(2); *see also id.* § 25.195(a) (property owner or designated agent has right of access to records relating to that property and to information used to appraise property). Thus, a property owner or the owner’s designated agent has a right of access to information that is confidential under section 22.27(a). *See Op. Tex. Att’y Gen. No. JC-0424 (2001).*

You argue, however, that the requestor “cannot claim to be a tax agent of the property owner until a new agent form is submitted to the District for [the requestor]” pursuant to section 1.111 of the Tax Code. Section 1.111 of the Tax Code states, in relevant part:

(a) A property owner may designate a lessee or other person to act as the agent of the owner for any purpose under this title in connection with the property or the property owner.

(b) The designation of an agent must be made by written authorization signed by the owner, a property manager authorized to designate agents for the owner, or other person authorized to act on behalf of the owner, and must clearly indicate that the person is authorized to act on behalf of the property owner in property tax matters relating to the property or the property owner. The designation may authorize the agent to represent the owner in all property tax matters or in specific property tax matters as identified in the designation.

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<sup>2</sup>The district informs us, and provides documentation showing, that the agent who provided the requested information to the district “represented the property owner from June 5, 2000 through May 4, 2005, and had authority to file renditions and represent the property owner regarding property taxation.”

...

(h) The comptroller shall prescribe forms and adopt rules to facilitate compliance with this section.

Tax Code § 1.111(a), (b), (h). Pursuant to this directive, the comptroller developed the following requirements for designating an agent:

(a) Except as provided by subsection (o) of this section, a property owner shall use comptroller Model Form 1.111 to designate an agent for property tax matters. For the purposes of this section, the term "property owner" includes a person who claims a legal interest in the property.

...

(c) *The appointment of an agent under subsection (a) of this section is not binding on an appraisal district until the designation form is filed with the district.* The property owner shall indicate the date the owner appoints the agent on the designation form. If the property owner files forms designating more than one agent to act in the same capacity for the same item of property, the form bearing the later date of appointment revokes the form bearing the earlier date, as of the date the form bearing the later date is filed.

34 T.A.C. § 9.3044(a)-(c) (emphasis added). Thus, only upon submission of the proper form may a property owner designate another person to act as that owner's agent with regard to property tax matters. Here, the district informs us that the requestor has not submitted Model Form 1.111 in order to be designated as the property owner's agent. Accordingly, we agree that the requestor does not have a right of access to the submitted information. *See Harris County Appraisal Dist. v. Coastal Liquids Transportation*, 7 S.W.3d 183, 188 (Tex. App. – Houston [1<sup>st</sup> Dist.] 1999), *aff'd in part, rev'd in part on other grounds*, 46 S.W.3d 880 (Tex. 2001) (failure of landowner to comply with comptroller's rules by filing Model Form 1.111 precluded finding that lessee was landowner's agent, despite contract giving lessee right to protest tax appraisal). Therefore, based on your representations and our review of the submitted information, we conclude that the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax 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,



José Vela III  
Assistant Attorney General  
Open Records Division

JV/eb

Ref: ID# 262571

Enc. Submitted documents

c: Ms. Suzie Garza  
Hanford Development, Inc.  
425 Soledad  
San Antonio, Texas 78205  
(w/o enclosures)