



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

This ruling has been modified by court action  
The ruling and judgment can be viewed in PDF  
format below.



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 7, 2007

Mr. Matthew Tepper  
McCreary, Veselka, Bragg & Allen, P.C.  
700 Jeffery Way, Suite 100  
Round Rock, Texas 78664-2425

**The ruling you have requested has been amended as a result of litigation and has been attached to this document.**

OR2007-10095

Dear Mr. Tepper:

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# 286102.

The Harrison Central Appraisal District (the "district"), which you represent, received a request for "all data contained in your commercial and residential sales databases." You claim that the requested information is excepted from disclosure under sections 552.101, 552.110, and 552.148 of the Government Code.<sup>1</sup> We have considered the exception you claims.

Initially, we must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedures that 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 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)(1)(D). The district received the request for information on May 21, 2007, but it has not submitted a copy of the specific information

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<sup>1</sup>Section 552.148 of the Government Code, which took effect on June 16, 2007, generally excepts from release certain records that the Texas Comptroller and appraisal districts receive from private entities. *See* Act of May 21, 2007, 80th Leg., R.S., H.B. 2188, § 1 (to be codified at Tex. Gov't Code § 552.148).

requested or representative samples of it. Thus, the district failed to comply with the procedural requirements mandated by section 552.301.

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 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); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Although sections 552.101, 552.110, and 552.148 of the Government Code can provide compelling reasons for nondisclosure of information under section 552.302, we have no basis for concluding that the requested information is excepted under any of these sections because you failed to submit any portion of it to us for our review. Therefore, we have no choice but to order the district to release the information at issue. If the district believes that the information at issue is confidential, private, or proprietary and may not lawfully be released, it must challenge this ruling in court as outlined below.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jh

Ref: ID# 286102

c: Jeri Mustain  
Patrick O'Connor & Associates, L.P.  
2200 North Loop West, Suite 200  
Houston, Texas 77018  
(w/o enclosures)

OCT 02 2013

At 8:42am M.  
Amalia Rodriguez-Mendoza, Clerk

Cause No. D-1-GN-07-002767

HARRISON CENTRAL APPRAISAL DISTRICT, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT
	§	
	§	
v.	§	126th JUDICIAL DISTRICT
	§	
ATTORNEY GENERAL OF THE STATE OF TEXAS, <i>Defendant.</i>	§	
	§	
	§	TRAVIS COUNTY, TEXAS

**AGREED FINAL JUDGMENT**

This is a cause of action under the Public Information Act (PIA), Texas Government Code Chapter 552, in which Plaintiff Harrison Central Appraisal District (Appraisal District) sought to withhold certain information from public disclosure. All matters of controversy between the Appraisal District and Defendant Greg Abbott, Attorney General of Texas (Attorney General), arising out of this lawsuit have been resolved, and the parties agree to the entry and filing of an agreed final judgment.

Texas Government Code section 552.325(d) requires the Court to allow a requestor a reasonable period of time to intervene after notice is attempted by the Attorney General. The Attorney General represents to the Court that in compliance with section 552.325(c), the Attorney General sent a letter by certified mail and email to the requestor, Ms. Jeri Mustain, on September 10, 2013, providing reasonable notice of this setting (*see* attached mail receipt). The requestor was informed of the parties' agreement that the Appraisal District must withhold the information at issue. The requestor was also informed of her right to intervene in the suit to contest the Appraisal District's right to withhold the information. The requestor has not filed a motion to intervene.

After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed judgment is appropriate, disposing of all claims between the parties.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECLARED THAT:

1. The information at issue consists of the information contained in the Appraisal District's property sales database, which was obtained from private appraisal entities, Multiple Listing Services, and buyers and sellers of real property between January 1, 2005, and May 21, 2013.

2. The Appraisal District must withhold from the requestor the portions of the information at issue:

- (i) obtained from private appraisal entities and Multiple Listing Services that relate to real property sales prices, descriptions, characteristics and other related information pursuant to Tex. Gov't Code § 552.149(a); and
- (ii) obtained from property owners and buyers in connection with the appraisal of property after a promise of confidentiality pursuant to Tex. Gov't Code § 552.101, in conjunction with Tex. Tax Code § 22.27(a).

3. All court costs and attorney fees are taxed against the parties incurring the same;

4. All relief not expressly granted is denied; and

5. This Agreed Final Judgment finally disposes of all claims between the Appraisal District and the Attorney General and is a final judgment.

SIGNED the 2 day of October, 2013.

  
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PRESIDING JUDGE

AGREED:



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MATTHEW TEPPER  
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700 Jeffrey Way, Suite 100  
Round Rock, Texas 78665  
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ATTORNEY FOR PLAINTIFF



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ATTORNEY FOR DEFENDANT