



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2007

Mr. Juan J. Cruz
Escamilla & Poneck, Inc.
5219 McPherson Road, Suite 306
Laredo, Texas 78041

OR2007-11548

Dear Mr. Cruz:

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# 289629.

The Webb County Appraisal District (the "district"), which you represent, received three requests for information relating to a property tax matter involving the requestor. You state that some of the requested information either has been or will be released. You claim that other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We first note that when a governmental body asks this office to decide whether requested information is excepted from public disclosure, it must comply with the deadlines prescribed by section 552.301 of the Government Code. *See* Gov't Code § 552.301. If the governmental body fails to do so, the requested information is presumed to be public and must be released unless there is a compelling reason to withhold any of the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). The governmental body can overcome the presumption that information is public under section 552.302 by demonstrating that the information is confidential by law or that third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). This request for a decision presents issues with regard to the district's compliance with section 552.301. However, because the district's claim under section 552.101 of the Government Code can provide a compelling reason for non-disclosure under section 552.302, we need not determine whether the district has complied with section 552.301 in requesting this decision.

Section 552.101 excepts 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. You raise section 552.101 in conjunction with section 22.27 of the Tax Code, which provides in 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); *see id.* § 41.41 (property owner may protest certain property evaluations before appraisal review board). We understand that the district is an “appraisal office” for the purposes of section 22.27(a). You indicate that the district obtained the information at issue in connection with appraisals of property. You state that “[t]he information was provided to the [d]istrict in a confidential manner.” You also state that none of the exceptions listed in section 22.27(b) apply. You do not inform us, however, whether or to what extent the information at issue was disclosed to the district by property owners after a promise that the information would be held confidential. Nevertheless, to the extent that the information at issue was voluntarily disclosed to the district by a property owner after a promise of confidentiality, we conclude that the information is confidential under section 22.27(a) of the Tax Code and must be withheld from disclosure under section 552.101 of the Government Code. To the extent that the information at issue was not voluntarily disclosed to the district by a property owner after a promise of confidentiality, we conclude that the information is not confidential under section 22.27(a) and may not be withheld under section 552.101. Because you claim no other exception to disclosure, any information that is not confidential under section 22.27 must be released.

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).

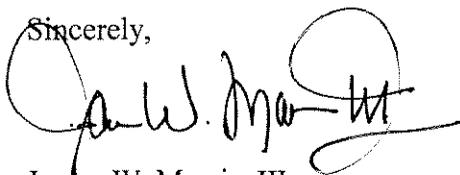
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ma

Ref: ID# 289629

Enc: Submitted documents

c: Mr. Samuel J. Sanchez
703 East Del Mar Boulevard
Laredo, Texas 78041
(w/o enclosures)