



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2007

Ms. Donna Rhoades
Chief Appraiser
Palo Pinto Appraisal District
P.O. Box 250
Palo Pinto, Texas 76484

OR2007-13968

Dear Ms. Rhoades:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the Act¹). Your request was assigned ID# 295753.

The Palo Pinto Appraisal District (the "district") received a request for a copy of the district's 2006 and 2007 commercial ratio studies, including a copy of all supporting data used to create the study. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.148 of the Government Code.

Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) general 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). The district did not submit a copy or representative sample of the requested information. Accordingly, we conclude that the district failed to comply with procedural requirements of the Act.

Pursuant to section 552.302 of the Government Code, the district's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the

information is public. *Id.* § 552.302; *see also 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); Open Records Decision No. 319 (1982). In order to overcome this presumption of openness, the district must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. Generally, a compelling reason is demonstrated when some other source of law makes the information at issue confidential or third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Sections 552.101 and 552.148 of the Government Code can provide compelling reasons to overcome the presumption of openness; however, because you did not submit the requested information for our review, we have no basis to find that these exceptions are applicable in this instance.¹ Thus, we have no choice but to order the district to release the requested information in accordance with section 552.302 of the Government Code. If the district believes the information is confidential and may not lawfully be released, you must challenge the 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).

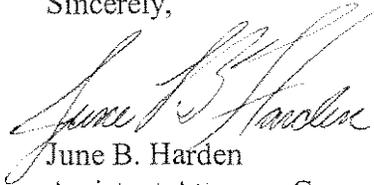
¹The Eightieth Legislature enacted two sections 552.148 of the Government Code. The provision that the district raises was enacted as Act of May 21, 2007, 80th Leg., R.S., ch. 471, § 1, 2007 Tex. Sess. Law. Serv. 832.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/sdk

Ref: ID# 295753

c: Ms. Abbigail Pendergraft
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(w/o enclosures)