



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2007

Mr. James R. Evans, Jr.
Hargrove & Evans, L.L.P.
4425 Mopac South
Building 3, Suite 400
Austin, Texas 78735

OR2007-15987

Dear Mr. Evans:

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# 296405.

The Hunt County Appraisal District (the "district"), which you represent, received a request for the 2006 and 2007 commercial ratio studies and their supporting data. The district states it will release the ratio studies but claims the data mentioned in the studies are excepted from disclosure under section 552.148 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Section 552.148 of the Government Code provides in relevant part that, "[i]nformation relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of Section 552.021." *See* Act of May 21, 2007, 80th Leg., R.S., ch. 471, § 1, 2007 Tex. Sess. Law Serv. 832 (to be codified at Gov't Code § 552.148). The legislative history of section 552.148 indicates it was enacted as a result of the issuance of several open records

¹This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the district to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

rulings of this office in which we ruled that information provided by Multiple Listing Services (“MLS”) to appraisal districts under confidentiality agreements is subject to required public disclosure under the Act. HOUSE COMM. ON STATE AFFAIRS, BILL ANALYSIS, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007); *see, e.g.*, Open Records Letter Nos. 2006-07161 (2006), 2006-04628 (2006). Because of these rulings, many multiple listing services stopped providing sales information to appraisal districts. The bill analysis of House Bill 2188 states that the purpose of section 552.148 is to allow the relationships between a multiple listing service and appraisal districts to continue. HOUSE COMM. ON STATE AFFAIRS, BILL ANALYSIS, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). Here, the district states the information at issue consists of information relating to real property sales prices, descriptions, and characteristics obtained from private entities. The district does not inform us, nor does it appear, that the district is authorized to release this information to the requestor. *See* Gov’t Code § 552.148(b) (providing property owner or owner’s agent access to certain sales data for specified purpose). Based on the district’s representations, we conclude to the extent the information was obtained from a multiple listing service or other similar entity, the information is confidential under section 552.148. To the extent the information was not obtained from such an entity, the information is not confidential under section 552.148 of the Government Code and must be released.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

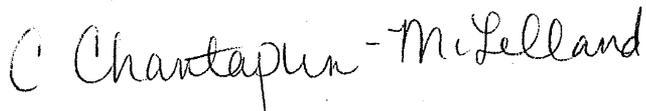
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

Sincerely,

A handwritten signature in black ink that reads "Chanita Chantaplin-McLelland". The signature is written in a cursive style with a large initial "C".

Chanita Chantaplin-McLelland
Assistant Attorney General
Open Records Division

CC/jb

Ref: ID# 296405

Enc. Submitted documents

cc: Ms. Abbigail Pendergraft
Patrick O'Connor & Associates, L.P.
2200 North Loop West, Suite 200
Houston, Texas 77018
(w/o enclosures)