



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2008

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

OR2008-08752

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# 314260.

The Pecos County Appraisal District (the "district"), which you represent, received a request for a specified property's "complete division of interest showing all owners of minerals, royalty, override, working interest" for the years 2005, 2006, and 2007. You claim that the requested information is excepted from disclosure under sections 552.101, 552.148, and 552.110 of the Government Code. You state that the release of some of the submitted information may implicate the proprietary interests of third parties. Accordingly, pursuant to section 552.305 of the Government Code, you have notified Sandridge Energy Inc., Stanolind Operating, Thos. Y. Picket & Company, and Torch Energy of this request and of their right to submit arguments to this office as to why the requested information should not be released. We have considered the exceptions you claim and reviewed the submitted information.¹ We have also considered comments submitted by the requestor and an interested third-party. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we note that some of the information you have submitted for review is from a different appraisal district, and is thus not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release this information, which we have marked, in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).

We understand that the responsive information was prepared for the district by Thos. Y. Pickett, an outside appraiser. Therefore, this information is subject to section 25.01(c) of the Tax Code, which provides as follows:

A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

Tax Code § 25.01(c). The effect of this provision is to make public the appraisal and "supporting data" which were provided to the district. *See Attorney General Opinion JC-0424 at 2 (2001)* (section 25.01(c) provides that certain information used or created by appraisal firm must be made available to appraisal district and deems that information public). Exceptions to disclosure under the Act generally do not apply to information that is made public by other statutes, such as section 25.01(c). *See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989)*. Therefore, to the extent the information at issue constitutes an appraisal or supporting data for the purposes of section 25.01(c), such information is a public record which must be released to the requestor. *See Tax Code § 22.27(b)(6)* (information made confidential by section 22.27(a) may be disclosed if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain). To the extent the information at issue does not constitute an appraisal or supporting data for the purposes of 25.01(c), we will address the submitted arguments against disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 22.27 of the Tax Code provides the following:

(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). You indicate that the responsive information consists of division orders that were obtained from property owners under an agreement that the information be kept confidential. Based on your representation, we find that to the extent the division order information is not otherwise subject to section 25.01(c) of the Tax Code, then this information is confidential under section 22.27(a) and must be withheld under section 552.101 of the Government Code.²

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 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). If the governmental body does not file suit over 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).

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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.

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,



Bill Dobie
Assistant Attorney General
Open Records Division

WJD/jh

Ref: ID# 314260

Enc. Submitted documents

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