



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 30, 2008

Ms. Sandra Griffin  
Perdue, Brandon, Fielder, Collins & Mott, L.P.  
3301 Northland Drive, Suite 505  
Austin, Texas 78731

OR2008-08788

Dear Ms. Griffin:

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# 314349.

The Menard County Appraisal District (the "district"), which you represent, received a request for all information, including the 2008 landowner surveys, used to determine agricultural productivity values for crop year 2007. You state you have provided some of the requested information to the requestor. You claim that the requested 2008 landowner surveys are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup> We have also considered comments submitted by numerous property owners. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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

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<sup>1</sup> We 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.

Code § 552.101. This section encompasses information protected by other statutes, such as section 22.27 of the Tax Code, which states in pertinent part:

(a) [r]endition 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 state the requested 2008 landowner surveys contain income and expense information about specific real property and property owners that was obtained in connection with an appraisal. You also state the income and expense information was voluntarily disclosed to the district after a promise that the information would be held confidential. Thus, based on your representations and our review, we find the requested 2008 landowner surveys are confidential under section 22.27(a) of the Tax Code.

We note, however, that the requestor asserts a right of access to the requested surveys pursuant to section 25.195 of the Tax Code, which provides that “[a]fter the chief appraiser has submitted the appraisal records to the appraisal review board . . . , a property owner or the owner’s designated agent is entitled to inspect and copy the appraisal records relating to property of the property owner.” Tax Code § 25.195(a). You state, however, that the 2008 landowner surveys at issue here have not yet been submitted to the appraisal review board. Based on this representation, we find that the requestor has not established the applicability of section 25.195 to the requested surveys in this instance. Therefore, the district must withhold the requested 2008 landowner income and expense surveys under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

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).

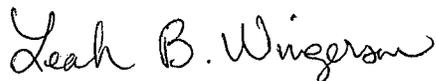
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/ma

Ref: ID# 314349

Enc. Submitted documents

c: Mr. Frank D. McAllister  
P.O. Box 946  
Menard, Texas 76859  
(w/o enclosures)

Mr. Larry Isom  
L&D, Inc.  
P.O. Box 577  
Big Lake, Texas 76932  
(w/o enclosures)

Mr. Carl Menzies  
2141 Valley View  
San Angelo, Texas 76904  
(w/o enclosures)

Mr. John Williamson  
P.O. Box 721  
Menard, Texas 76859  
(w/o enclosures)

Mr. Brett Kolaja  
3803 W. Valley Dr.  
Missouri City, Texas 77459  
(w/o enclosures)

Mr. W. Michael Clay  
Attorney  
6420 N. MacArthur Blvd., Suite 100  
Irving, Texas 75039  
(w/o enclosures)

Mr. Thomas A. Williamson  
18799 Williamson Rd.  
Menard, Texas 76859  
(w/o enclosures)