



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2008

Mr. Lee Vickers
Martinec, Winn, Vickers & McElroy, P.C.
600 Congress Avenue, Suite 500
Austin, Texas 78701

OR2008-14235

Dear Mr. Vickers:

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#324968.

The Hays Central Appraisal District (the "district"), which you represent, received a request for information related to the reappraisal of a specific property in Wimberley, Texas and the district's appraisal policies, procedures, and statutory authority. You state that you have released some of the requested information. You claim that some of the submitted information is excepted from disclosure under sections 552.101 and 552.148 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert that the information at issue is excepted under section 552.148 of the Government Code. Section 552.148 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." Gov't Code § 552.148. We note that the submitted information consists of real property sales and appraisal information obtained from the property owners. The legislative history of section 552.148 indicates that it was enacted as a result of the issuance of several open records rulings of this office in which we determined that information provided by Multiple Listing Services to appraisal districts under confidentiality agreements is subject to required public disclosure under the Act. *See* House Comm. On State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). 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 multiple listing services and appraisal districts to continue. House

Comm. On State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). Accordingly, we find that property owners are not private entities as intended by the legislature when enacting section 552.148. Therefore, the district may not withhold the information at issue under section 552.148 of the Government Code.

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, such as section 22.27 of the Tax Code. This section states in pertinent 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). The information at issue is sales information provided to the district by the property owners. You do not claim that the information submitted by the property owners was obtained under a promise of confidentiality. Therefore, to the extent that the district obtained the information at issue from the property owners under a promise of confidentiality, such information is confidential under section 22.27(a) of the Tax Code and must be withheld under section 552.101 of the Government Code. To the extent that the district did not obtain the information at issue from the property owners under a promise of confidentiality, such information is not confidential under section 22.27(a) of the Tax Code and 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 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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/jb

Ref: ID#324968

Enc. Submitted documents

c: Mr. Charles O'Dell, Ph.D.
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(w/o enclosures)