



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 23, 2008

Mr. Joseph T. Longoria
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.
1235 N. Loop West, Suite 600
Houston, Texas 77008

OR2008-17495

Dear Mr. Longoria:

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# 330760.

The Collin County Appraisal District (the "district"), which you represent, received a request for the owner of the property at a specified address and the identity of any property owned by a named individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

Initially, we note that you have not submitted any information responsive to the request for identity of property owned by a named individual. Therefore, to the extent this information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

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.

Next, we note that the requestor only seeks "the owner" of the property at the specified address. Accordingly, we conclude that only the name of the owner of the specified property, and none of the remaining information on the submitted document, is responsive to the request. This ruling does not address the public availability of any of the remaining information that is not responsive to the request, and the district need not release such information in response to the request.

Next, we must address the district's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(e), the governmental body is required to submit to this office within fifteen business days of receiving the 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). You state the district received the request for information on October 9, 2008. However, you did not submit the representative sample of the information at issue until October 31, 2008. Thus, the district failed to comply with the procedural requirements mandated by section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Section 552.101 of the Government Code can provide a compelling reason to overcome this presumption; therefore, we will consider whether this section requires the district to withhold the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses information protected by other statutes. Section 25.025 of the Tax Code states, in pertinent part:

(a) This section applies only to:

- (1) a current or former peace officer as defined by Article 2.12, Code of Criminal Procedure;

...

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if:

(1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address.

Tax Code § 25.025. Section 25.02 of the Tax Code prescribes the information that must be contained within appraisal records. *See* Tax Code § 25.02. This information includes the name and address of the owner of the property. *See id.* § 25.02(a)(1).

You assert, and we agree, that the document you have submitted to this office as responsive to the request contains the information required to be contained in appraisal records under section 25.02 of the Tax Code. Thus, we conclude that the submitted document consists of an appraisal record for purposes of section 25.025(b) of the Tax Code. You inform us that the owner of the property at the specified address is a police officer. You state that, prior to the district's receipt of the instant request, the officer filed a request for confidentiality with the district and that the request for confidentiality has not been revoked. We understand that the request for confidentiality was on the form prescribed for that purpose by the comptroller under section 5.07 of the Tax Code. Thus, pursuant to subsection (b), the address of the property owned by the officer would be confidential.

However, in this instance, the requestor has provided the address of the property and seeks the owner's name. In this regard, we again note that section 25.025(d) provides that section 25.025 "does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address." The appraisal record you have submitted identifies the individual who has made an election under subsection (b) as well as the specified address of the property. Accordingly, when read together, we conclude that subsections (b) and (d) require that the name of the property owner at issue in the instant request be withheld in order to safeguard the privacy interests subsection (b) was designed to protect. Therefore, we conclude that the

district must withhold the name of the property owner from the submitted document under section 552.101 of the Government Code in conjunction with section 25.025(b) of the Tax Code.

To summarize, the district must withhold the name of the property owner from the submitted document under section 25.025(b) of the Tax Code. The remaining submitted information is non-responsive and need not 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,

A handwritten signature in cursive script that reads "Jonathan Miles".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/ma

Ref: ID# 330760

Enc. Submitted documents

c: Requestor
(w/o enclosures)