



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 14, 2009

Mr. Sands L. Stiefer  
Chief Deputy & General Counsel  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-9075

OR2009-00531

Dear Mr. Stiefer:

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# 332457.

The Harris County Appraisal District (the "district") received a request for the account number, sales date, and qualified code for all individual real property sales occurring after January 1, 2005.<sup>1</sup> You state that the district will release responsive information not obtained from a private entity to the requestor. You claim that the remaining requested information is 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.<sup>2</sup> We have also received and considered comments from the requestor. *See*

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<sup>1</sup>You indicate the district sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

<sup>2</sup>We assume that the representative samples of records submitted to this office are 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.

Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

You assert that the remaining requested information is subject to 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." *Id.* § 552.148. You state that the remaining requested information consists of sales data obtained from a private entity. Based on your representations and our review, we find that the information obtained from a private entity is generally confidential under section 552.148(a).

However, you acknowledge that a property owner or the owner's designated agent has a right of access to certain information that is confidential under section 552.148(a) of the Government Code. Subsection (b) of section 552.148 reads, in part:

Notwithstanding Subsection (a), the property owner or the owner's agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest.

*Id.* § 552.148(b). You state that the district has released data to the requestor pertaining to protests involving the requestor's clients that had been scheduled as of the date of the request. You explain that the remaining information falls into two categories, (1) data that the district has considered for section 552.148 purposes pertaining to protests where the requestor's firm does not represent the protesting individual, and (2) data that the district has yet to consider for section 552.148 purposes pertaining to protests where the requestor's firm does represent the protesting individual. We agree that the district must withhold the category one information pursuant to section 552.148(a) of the Government Code. Regarding category the two information, the requestor argues that sales data is not manually prepared or reviewed and that, through use of computer algorithms, the district "has already decided which evidence will be included with each hearing file." As noted above, you assert that the category two information is sales data that has not yet been considered by the district for section 552.148 purposes.

Whether the necessary determinations had been made by the district for purposes of section 552.148(b) at the time this request was received is a question of fact. This office cannot resolve disputes of fact in its decisional process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision or upon those facts that are discernible from the documents

submitted for our inspection. *See* Open Records Decision No. 552 at 4 (1990). Accordingly, we must accept the district's representation that the category two information consists of data that the district had yet to consider for the purposes of section 552.148(b) when it received this request. Therefore, that information must also be withheld pursuant to section 552.148(b) of the Government Code.

In summary, the district must withhold the real property sales data information obtained from private entities, pertaining to either protests for which the requestor's firm does not represent the protesting individual or protests where the requestor's firm does represent the protesting individual but that the district has yet to consider for section 552.148 purposes, under section 552.148(a) of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/jb

Ref: ID# 332457

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)