



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 11, 2009

Mr. Michael B. Gary  
Assistant General Counsel  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-9075

OR2009-06321

Dear Mr. Gary:

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# 340980 (HCAD Internal Reference Numbers 09-00379 through 09-00385).

The Harris County Appraisal District (the "district") received a request for information pertaining to crude oil, petroleum products, and natural gas inventory property located in any tanks, storage terminals, or facilities located in Harris County, Texas and six requests for information pertaining to six named refineries. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.148 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup> We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially we note the district has not submitted any contracts for appraisal services entered into between the district and any private appraisal firm pursuant to which any such private appraisal firms performed appraisal services for the district rendered in connection with the

---

<sup>1</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

appraisal of the property identified in the seven requests for tax years 2006, 2007, and 2008. To the extent such contracts exist, they must be released to the requestor immediately. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting if governmental body concludes no exceptions apply to the requested information, it must release the information as soon as possible under circumstances).

Next, we note Exhibit B, which consists of completed appraisals and supporting data, was prepared for the district by Capitol Appraisal Group, Inc., a private appraisal firm, and you inform us Exhibit C-3, which consists of supporting data used in appraisals, was prepared for the district by a private appraisal firm. 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" that must be provided to the district. *See* Attorney General Opinion JC-0424 at 2 (2001) (section 25.01(c) provides 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 made public by other statutes, such as section 25.01(c). *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Thus, the district may not withhold Exhibits B and C-3 under section 552.148 of the Act. In addition, section 22.27(b)(6) of the Tax Code provides 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. Tax Code § 22.27(b)(6). Accordingly, because Exhibits B and C-3 are public under section 25.01(c), the district may not withhold them under section 22.27.

Further, section 25.195(a) of the Tax Code provides:

After the chief appraiser has submitted the appraisal records to the appraisal review board as provided by Section 25.22(a), 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, together with supporting data, schedules, and, except as provided by Subsection (b), any other material or information held by the chief appraiser or required by Section 25.01(c) to be provided to the appraisal district under a contract for appraisal services, including material or information obtained under Section 22.27, that is

obtained or used in making appraisals for the appraisal records relating to that property.

*Id.* § 25.195(a). This statute allows for a property owner's designated agent to inspect appraisal records and supporting data required by section 25.01(c) to be provided to the appraisal district under a contract for appraisal services that relate to the property owner's property. We understand the requestor is the legal representative of one of the property owners at issue. Thus, the requestor has a right of access to the submitted appraisals and supporting data relating to the property of the requestor's client (the "client") that was required to be provided to the district by section 25.01(c). The district informs us the submitted information pertaining to refineries other than the client's refinery was used in appraising the client's property. Thus, Exhibits B and C-3 consist of appraisals and supporting data that are related to the client's property. Therefore, section 25.195(a) further provides the requestor with a right of access to Exhibits B and C-3, and the district must release this information to the requestor. *See* ORD 623 at 3, 525 at 3; *see also* Tax Code § 22.27(b)(6).

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.

(b) Information made confidential by this section may be disclosed:

(6) 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[.]

Tax Code § 22.27(a), (b)(6). You argue the remaining information, Exhibits C-1 and C-2, is confidential under section 27.27(a). We understand the district is an appraisal office for purposes of section 22.27. You state and have provided an affidavit showing the district routinely promises confidentiality to property owners providing information to the district in connection with the appraisal of the property. We find Exhibits C-1 and C-2 consist of statements and reports about specific personal property that were voluntarily disclosed to the district by the personal property owners after a promise of confidentiality. Thus, we find Exhibits C-1 and C-2 are confidential under section 22.27 of the Tax Code. However, we note section 22.27(b)(6) states 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 the district is required to prepare or maintain.

We previously noted section 25.195(a) states except as provided by subsection (b), a property owner's designated agent has a right of access to information subject to section 22.27. Thus, section 25.195(a) is limited by section 25.195(b), which states "[t]he owner of property other than vacant land or real property used for residential purposes or the owner's agent may not inspect any material or information obtained under section 22.27." *Id.* § 25.195(b). Section 25.195(b) prohibits an agent of a non-residential property owner from accessing information the district obtained under section 22.27. Here, the requestor's client owns commercial property, and the district obtained Exhibits C-1 and C-2 under section 22.27. Thus, the requestor does not have a right of access to Exhibits C-1 and C-2 because they are confidential under section 22.27.

Lastly, the requestor asserts Exhibit C-1, which the district informs us consists of cost data used in appraising the inventory property, is subject to section 23.011(3) of the Tax Code. Section 23.011 describes the cost method of appraisal, and provides "[i]f the chief appraiser uses the cost method of appraisal to determine the market value of *real property*, the chief appraiser shall: . . . (3) make available to the public on request the cost data developed and used by the chief appraiser as applied to all properties within a property category[.] *Id.* § 23.011(3) (emphasis added). However, the district argues section 23.011(3) specifically applies to cost data used to appraise real property only. We agree; the plain language of section 23.011 shows it applies to real property only. Further, we note the method for appraising inventory is found in section 23.12. *Id.* § 23.12(a) (stating the market value of inventory is the price for which it would sell as a unit to a purchaser who would continue the business). As inventory property has its own valuation provision, the valuation provisions pertaining to real property do not apply to inventory. Therefore, as section 23.011 pertains to the cost method of appraisal for "the market value of real property," we agree with the district that section 23.011 of the Tax Code does not apply to cost data applied to appraisals for inventory property. As Exhibit C-1 consists of cost data applied to inventory property,

this information is not subject to section 23.011(3). Therefore, we have no information to allow us to conclude an exception to confidentiality in section 22.27(b) is applicable to Exhibits C-1 and C-2, and the district must withhold them pursuant to section 552.101 of the Government Code.<sup>2</sup>

In summary, the district must release Exhibits B and C-3 pursuant to sections 25.01(c) and 25.195(a) of the Tax Code. The district must withhold Exhibits C-1 and C-2 pursuant to 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 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,



Emily Sitton  
Assistant Attorney General  
Open Records Division

EBS/cc

Ref: ID# 340980

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>2</sup>Because our determination is dispositive, we need not address your remaining arguments against disclosure.