



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 22, 2009

Mr. Joseph T. Longoria  
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.  
Attorney for Chambers County Appraisal District  
1235 North Loop West, Suite 600  
Houston, Texas 77008

OR2009-07006

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# 342571.

The Chambers County Appraisal District (the "district"), which you represent, received a request for five categories of information pertaining to specified appraisal records. You state you have released information responsive to categories three and five to the requestor. You claim that the remaining 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 representative sample of information.<sup>1</sup> We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, we note that you have not submitted for review information responsive to the portion of the request seeking appraisal records related to the property at issue. You state that the information responsive to the request is collected and maintained by a private appraisal firm, Capitol Appraisal Group, Inc. ("Capitol"), in accordance with a contractual agreement between the district and Capitol. We note, however, section 25.01(c) of the Tax Code provides "[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

---

<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.

available to the appraisal district and such appraisals and supporting data shall be public records." See Tax Code § 25.01(c). The effect of this provision is to make public the appraisals which must be provided to the district. See Attorney General Opinion JC-0424 at 2 (2001) (section 25.01(c) provides that 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 that is made public by other statutes, such as section 25.01(c). See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Therefore, to the extent any appraisals responsive to the first and fourth categories of the request existed on the date that the district received this request, we assume they have been released to the requestor. If the district has not released all such information, it must do so at this time. See Gov't Code §§ 552.301(a), .302.

Next, we must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. The requestor asserts that the district failed to comply with section 552.301(e-1) of the Government Code, which requires the district to send to the requestor a copy of its comments submitted to this office pursuant to section 552.301(e)(1)(A). *Id.* § 552.301(e-1). Further, section 552.301(b) of the Government Code requires a governmental body to ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. See *id.* § 552.301(a), (b). You state that the district received the request on February 11, 2009. However, the district did not request a ruling from this office until March 3, 2009. Accordingly, we conclude that the district failed to comply with the requirements mandated by section 552.301 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 *id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Normally, a compelling reason is demonstrated when some other source of law makes the information at issue confidential or third-party interests are at stake. See Open Records Decision No. 150 at 2 (1977). Because sections 552.101 and 552.148 of the Government Code can provide compelling reasons to withhold information, we will address the applicability of these exceptions to the requested information.

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. You contend that the submitted information is confidential under 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.

(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). You assert the submitted rendition statements are confidential under section 22.27(a). We understand the district is an appraisal office for purposes of section 22.27. You indicate that the district promises confidentiality to property owners providing information to the district in connection with the appraisal of the property. We find the submitted documents consist of statements and reports about specific personal property that were voluntarily disclosed to the district by the property owner after a promise of confidentiality. Thus, the submitted information is 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. *See id.* § 22.27(b)(6).

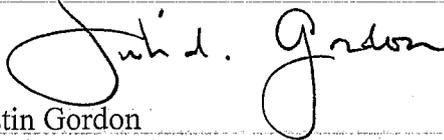
The requestor raises section 23.011(3) of the Tax Code, which describes the cost method of appraisal and provides “[i]f the chief appraiser uses the cost method of appraisal to determine the market value of real property, the chief appraiser shall: . . . (3) make available to the public on request the cost data developed and used by the chief appraiser as applied to all properties within a property category[.]” *Id.* § 23.011(3). In this instance, however, the district has not submitted any cost data for our review. As the submitted rendition statements do not represent cost data, we find this information is not subject to section 23.011(3). Therefore, we have no information to allow us to conclude any exception to confidentiality

found in section 22.27(b) is applicable to the submitted information, and the district must withhold it pursuant to section 552.101 of the Government Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Justin Gordon  
Assistant Attorney General  
Open Records Division

JDG/eeg

Ref: ID# 342571

Enc: Submitted documents

cc: Requestor  
(w/o enclosures)