



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 28, 2009

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

OR2009-10387

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# 350417.

The Collin County Appraisal District (the "district"), which you represent, received a request for (1) home comparisons used in appraising the requestor's home over a specified period of time and (2) information regarding all homes sold in Anna, Texas over the same period of time. You state information responsive to part two of the request does not exist in the district's records.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.148 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

²Although the district also claims that the requested information is excepted from disclosure under section 552.305 of the Government Code, we note that section 552.305 is not an exception to disclosure; instead, it permits a governmental body to decline to release information for the purpose of requesting an attorney general decision if it believes that a person's privacy or property interests may be involved. *See Gov't Code* § 552.305(a); Open Records Decision No. 542 at 1-3 (1990) (discussing statutory predecessor).

³We 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.

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 exception encompasses information made confidential by other statutes. Section 22.27(a) of the Tax Code provides the following:

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). We understand that the district is an "appraisal office" for purposes of section 22.27. You state Exhibit A consists of confirmed sales that are utilized by the district to create the models and tables used by the district to determine the value of property for ad valorem tax purposes. You state that this information is contained in property renditions, sales disclosures, income/expense information, settlement statements, and closing documents provided by individual taxpayers under a promise of confidentiality. You state that the exceptions to confidentiality provided by section 22.27(b) do not apply. Based on these representations and our review, we agree Exhibit A is confidential under section 22.27(a) of the Tax Code and must be withheld under section 552.101 of the Government Code.

You assert that the remaining submitted information is subject to section 552.148 of the Government Code. Section 552.148 provides, in relevant part:

(a) Information 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 [the Act].

(b) 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.

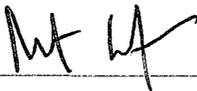
Gov't Code § 552.148(a)-(b). The Texas Legislature has recently amended section 552.148 to limit the applicability of section 552.148(a) to those counties having a population of 20,000 or more. *See* Act of May 29, 2009, 81st. Leg., R.S., S.B. 1813, § 1 (to be codified at Tex. Gov't Code § 552.148(d)); Act of June 3, 2009, 81st. Leg., R.S., H.B. 2941, § 1 (to be codified at Tex. Gov't Code § 552.148(e)). We note that Collin County has a population of 20,000 or more. You state Exhibit B consists of sales data obtained from Multiple Listing Services and similar private entities. 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. You further state, however, that no protest has been filed regarding the property at issue. Based on these representations and our review of the submitted information, we agree that the district must withhold Exhibit B under section 552.148 of the Government Code.

In summary, the district must withhold Exhibit A under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code and Exhibit B under section 552.148 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, 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/eb

Ref: ID# 350417

Enc. Submitted documents

c: Requestor
(w/o enclosures)