



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2010

Ms. Judith A. Hargrove
Hargrove & Evans, L.L.P.
For Atascosa County Appraisal District
4425 Mopac South, Building 3, Suite 400
Austin, Texas 78735

OR2010-12419

Dear Ms. Hargrove:

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# 390688.

The Atascosa County Appraisal District (the "district"), which you represent, received a request for all 2010 ratio reports and a list of residential sales in the Pleasanton Independent School District. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

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

¹Although you claim the information is excepted under section 552.148 of the Government Code, we note the 81st Texas Legislature renumbered section 552.148 to section 552.149 of the Government Code. Act of May 12, 2009, 81st Leg., R.S., ch. 87, § 27.001(39), 2009 Tex. Sess. Law Serv. 208, 376 (Vernon).

²We assume that the "representative sample" of information 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.

Code § 552.101. This section encompasses information protected by other statutes, such as section 22.27 of the Tax Code, which 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.

Tax Code § 22.27(a). You indicate that some of the submitted information was furnished to the district by a property owner in connection with the appraisal of property and under a promise of confidentiality. Thus, to the extent the submitted information was furnished to the district by a property owner in connection with the appraisal of property and under a promise of confidentiality, we find that the information is confidential under section 22.27(a) of the Tax Code, and must be withheld under section 552.101 of the Government Code. However, to the extent the information was not furnished by a property owner in connection with the appraisal of property and under a promise of confidentiality, the information is not confidential under section 22.27(a) of the Tax Code and may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.149 of the Government Code 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. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales

that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner's protest. Information obtained under this subsection:

(1) remains confidential in the possession of the property owner or agent; and

(2) may not be disclosed or used for any purpose except as evidence or argument at the hearing on the protest.

Gov't Code § 552.149(a), (b). The 81st Texas Legislature amended section 552.149 to limit the applicability of sections 552.149(a) and (b) to those counties having a population of 20,000 or more. *See id.* § 552.149(e). We note that Atascosa County has a population of 20,000 or more. The legislative history of the statutory predecessor to section 552.149 indicates it was enacted as a result of the issuance of several open records rulings of this office in which we ruled information provided by multiple listing services to appraisal districts under confidentiality agreements is subject to required public disclosure under the Act. House Comm. On State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). Because of these rulings, many multiple listing services stopped providing sales information to appraisal districts. The bill analysis of House Bill 2188 states the purpose of this statute is to allow the relationships between multiple listing services and appraisal districts to continue. House Comm. On State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). You indicate some of the submitted information relates to real property sales and was provided to the district by private entities. Thus, to the extent the submitted information relates to real property sales and was provided to the district by private entities, it must be withheld under section 552.149(a) of the Government Code. However, to the extent the submitted information does not relate to real property sales or was not provided to the district by private entities, it may not be withheld under section 552.149 of the Government Code.

In summary, to the extent the submitted information was furnished to the district by a property owner in connection with the appraisal of property and under a promise of confidentiality, the district must withhold that information under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. To the extent the submitted information relates to real property sales and was provided to the district by private entities, it must be withheld under section 552.149 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Burnett", followed by a long horizontal line extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 390688

Enc. Submitted documents

c: Requestor
(w/o enclosures)