



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 21, 2011

Ms. Sharon Coffee Baxter  
Senior Litigation Attorney  
Travis Central Appraisal District  
P.O. Box 149012  
Austin, Texas 78714-9012

OR2011-01018

Dear Ms. Baxter:

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# 407988.

The Travis Central Appraisal District (the "district") received a request for the fee appraisal used to lower the value of a specified condominium at Montevista Condominiums. You claim some of the requested information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. You also indicate you notified the owner of the property at issue of the district's receipt of the request for information and of the property owner's right to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, no interested third party has submitted to this office any reasons explaining why the requested information should not be released. We thus have no basis for concluding any portion of the submitted information constitutes proprietary information of any interested third party, and the district may not withhold any portion of the requested information on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show

by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3.

The district asserts the information in Exhibits 3 and 4 is excepted under section 552.110 of the Government Code because the release of this information "would cause substantial competitive harm to Montevista Condominiums." Section 552.110 protects the interests of third parties, not governmental bodies. *See* Open Records Decision No. 319 (1982) (statutory predecessor to section 552.110 designed to protect third-party interests that have been recognized by the courts). We have not received any arguments from an interested third party explaining that the submitted information contains its trade secrets or its commercial or financial information. *See id.* § 552.305(d)(2)(B) (providing that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under 552.305(d) to submit its reasons as to why information relating to that party should be withheld from public disclosure). Because no interested third party has demonstrated that the information at issue qualifies as a trade secret or that release of the information at issue would result in substantial competitive harm, we conclude that none of the information at issue may be withheld pursuant to section 552.110.

The district also asserts the information at issue is excepted under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 22.27 of the Tax Code provides in relevant part 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). The submitted information consists of an appraisal report. You inform us "[t]he information the [d]istrict seeks to withhold contains information regarding historic income and operating statements as well as actual expenses for the subject property[.]" You also state "[t]his information was received from the property owner and or its agent to argue property values of a collective group of condominiums actively marketed for sale to private owners." Based on these representations, we conclude that, to the extent the information you

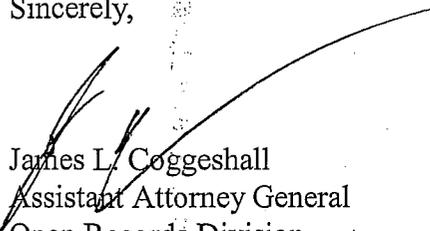
have marked in Exhibits 3 and 4 was provided to the district by the property owner or the owner's agent in connection with the appraisal of property and under promises of confidentiality, then this information is confidential under section 22.27(a) of the Tax Code and the district must withhold it from release pursuant to section 552.101 of the Government Code. If, however, the property owner or its agent did not provide the information to the district in connection with the appraisal of property and under promises of confidentiality, then this information is not confidential under section 22.27(a), and the district may not withhold it under section 552.101 on that ground.

To conclude, the district must withhold the information you have marked in Exhibits 3 and 4 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code if this information was provided to the district by the property owner or the owner's agent in connection with the appraisal of property and under promises of confidentiality. The district must release the remaining responsive information to the requestor.

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, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/vb

Ref: ID# 407988

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Montevista Condominiums  
Property Owner  
6000 Shepherd Mountain Cove  
Austin, Texas 78730  
(w/o enclosures)