



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 3, 2011

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

OR2011-01775

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# 408096.

The Collin County Appraisal District (the "district"), which you represent, received a request for "all supporting documentation provided by the property owner and/or utilized by the district to determine the market value and/or utilized at the 2010 appraisal review board hearings" for six specified accounts. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code.<sup>1</sup> Further, we note you have informed a third party, CoStar Group ("CoStar"), of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from CoStar. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>Although you claim the information is excepted under section 552.148 of the Government Code, we note the 81<sup>st</sup> 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).

<sup>2</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 that those records contain substantially different types of information than that submitted to this office.

CoStar asserts that portions of the submitted information are not subject to the Act pursuant to section 552.027 of the Government Code. Section 552.027(a) provides that “[a] governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.” Gov’t Code § 552.027(a). Section 552.027 is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. The legislative history of this provision notes that section 552.027 should exclude from the definition of public information:

books and other materials that are also available as research tools elsewhere to any member of the public. Thus, although public library books are available for public use, the library staff will not be required to do research or make copies of books for members of the public.

Interim Report to the 74th Legislature of the House State Affairs Comm., 74th Leg., R.S., Subcommittee on Open Records Revisions 9 (1994). Therefore, section 552.027 excludes commercially available research material from the definition of “public information.”

CoStar claims a portion of the requested information, the CoStar Reports (the “reports”), constitutes commercially available information. However, CoStar states that access to the reports is limited to subscribers subject to the terms of written license agreements that preclude dissemination of the reports to unlicensed third parties. CoStar further states that the reports are not within the possession of the subscriber, but available through the CoStar website, which requires a password. Where access to information is limited to certain individuals, such information cannot be said to be available “to any member of the public.” Therefore, we find CoStar has failed to demonstrate the reports are commercially available for the purposes of section 552.027 of the Government Code. *See* Gov’t Code § 552.027. Accordingly, the information at issue is not subject to section 552.027 and must be released, unless it falls within an exception to public disclosure. We next address the district’s arguments under sections 552.101 and 552.149 of the Government Code.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information protected by other statutes. You contend that part of the requested 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.

Tax Code § 22.27(a). You state that the information in Exhibit A was provided by individual taxpayers under a promise of confidentiality. You assert that this information is utilized by the district to create the models and tables that are used by the district to determine the values of property for ad valorem tax purposes and that the district has no other access to this type of information other than its voluntary disclosure by individual taxpayers and other sources. You state that none of the permissible disclosures in subsection (b) of section 22.27 apply in this instance. Based on your representations and our review, we find that Exhibit A is confidential under section 22.27 of the Tax Code and must be withheld under section 552.101 of the Government Code.

You raise section 552.149 for the remaining information, which you have labeled Exhibit B. 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.

Gov't Code § 552.149(a)-(b). The 81st Texas Legislature amended section 552.149 to limit the applicability of section 552.149(a) to those counties having a population of 20,000 or more. *See id.* § 552.149(d), (e). We note that Collin County has a population of 20,000 or more. You state the information at issue consists of sales data and related information obtained from Multiple Listing Services. 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 552.149(a) of the Government Code. *See id.* § 552.149(b). However, we have no indication a protest has been filed regarding the requestor's property. Based on these

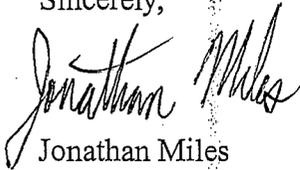
representations and our review of the submitted information, we agree the district must withhold the information in Exhibit B under section 552.149 of the Government Code.

In summary, the district must withhold the information in Exhibit A under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code. The district must withhold the information in Exhibit B under section 552.149 of the Government Code.<sup>3</sup>

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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 408096

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>As our ruling is dispositive, we need not address CoStar's remaining arguments.