



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 18, 2011

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

OR2011-12001

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# 427299.

The Travis Central Appraisal District (the "district") received a request for a copy of the ecological laboratory application and supporting materials for a specified property. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted 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. Section 552.101 encompasses information made confidential by other statutes. You contend 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). The submitted information contains an application for agricultural appraisal for ecological laboratory, and documents submitted in support of this application. You state that open space designation applications, like agricultural designation applications, contain information the property owner provides to the district to determine qualification, including income information about the agricultural operation, and expense information, including vet bills, feed bills, and operating statement. Based on these representations, we conclude that, to the extent the submitted 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, 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.

You also raise section 552.101 in conjunction with section 23.45 of the Tax Code. We understand the district is charged with administering special valuations for certain types of agricultural property, including land designated for agricultural use and open space land. *See* Tex. Const. art. VIII, §§ 1-d, 1-d-1. A property owner seeking a special designation must submit an application to the district; the requirements of each application are contained in different subchapters of the Tax Code, and contain different requirements for valuation. Subchapter C of chapter 23 of the Tax Code addresses land designated for agricultural use, while subchapter D addresses qualified open space land. You note that under subchapter C, section 23.45 provides “[a]n application for agricultural designation filed with a chief appraiser is confidential and not open to public inspection.” Tax Code § 23.45(a). You state that although the Tax Code is clear under section 23.45 that “1-D” agricultural designation applications are confidential, it is not clear as to “1-D-1” open space valuation (ecological laboratory) designations. The open space valuation (ecological laboratory) designation at issue is governed under subchapter D, which does not include the section 23.45(a) language present in subchapter C. We find that section 23.45(a) applies only to an application filed under subchapter C. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express and cannot be implied), 478 at 2 (1987) (language of confidentiality statute controls scope of protection), 465 at 4-5 (1987) (statute explicitly required confidentiality). Accordingly, we find that section 23.45(a) of the Tax Code is not

applicable to the information at issue, and it may not be withheld under section 552.101 of the Government Code on that basis.

In summary, the district must withhold the submitted information 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. If the information was not provided to the district in connection with the appraisal of property and under promises of confidentiality, it must be released.

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,



Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/sdk

Ref: ID# 427299

Enc. Submitted documents

c: Requestor
(w/o enclosures)