



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 17, 2011

Mr. Peter Low  
Law Office of Peter William Low  
3305 Northland Drive, Suite 500  
Austin, Texas 78731

OR2011-15093

Dear Mr. Low:

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# 433646.

The Fayette County Appraisal District (the "district"), which you represent, received a request for "[a]ll comparable real property sales data for rural land sales [for tracts of a specified acreage] and single-family residential home sales [for homes of a specified square footage]" within the La Grange Independent School District for a specified period of time. You claim that the requested information is excepted from disclosure under section 552.149 of the Government Code. We have considered the exception you claim.

We must address the district's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Section 552.301(b) requires that a governmental body ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See* Gov't Code § 552.301(b). Section 552.301(e) requires the governmental body to submit to the attorney general, not later than the fifteenth business day after the date of the receipt of the request: (1) written comments stating why the governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the written request for information; (3) a signed statement of the date on which the governmental body received the request or evidence sufficient to establish that date; and (4) a copy of the specific information that the governmental body seeks to withhold or representative samples if the information is voluminous, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e)(1)(A)-(D). You acknowledge, and we agree, the district did not comply

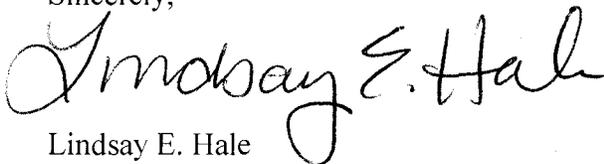
with its ten or fifteen business-day deadlines under section 552.301 of the Government Code in requesting this decision. Furthermore, we note that, as of the date of this letter, you have not submitted to this office a copy or representative sample of the information requested. *See id.* § 552.301(e)(1)(D).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *Id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, orig. proceeding); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, orig. proceeding) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason generally exists when information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). You raise section 552.149 of the Government Code, which can provide a compelling reason to withhold information. However, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure on the basis of the district's claimed exception. Thus, we have no choice but to order the requested information released to the requestor pursuant to section 552.302 of the Government Code. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 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](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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/ag

Ref: ID# 433646

c: Requestor