



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 30, 2012

Mr. James R. Evans, Jr.
Hargrove & Evans, L.L.P.
4425 Mopac South
Building 3, Suite 400
Austin, Texas 78735

OR2012-04680

Dear Mr. Evans:

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# 449126.

The Gonzales County Appraisal District (the "district"), which you represent, received a request for the names and addresses of owners who signed division orders during a specified time period. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. You also inform us that release of this information may implicate the proprietary interests of the appraisal company, Pritchard & Abbott, Inc. ("Pritchard"). Accordingly, you state, and provide documentation showing, you have notified Pritchard of the request and of its right to submit comments to this office as to why the submitted information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have received comments from a representative of Pritchard. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

Initially, we note the submitted information contains names and addresses and additional information. Because the requestor only seeks the names and addresses, the additional information is not responsive to his request. This decision does not address the public availability of information that is not responsive to the request, and the district need not release such information in response to the request.

The district asserts the responsive information is excepted under section 552.110. 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). Pritchard does not assert that the responsive information contains its trade secrets or its commercial or financial information that should be protected under section 552.110. Because Pritchard does not assert the responsive information qualifies as a trade secret or that release of the information at issue would result in substantial competitive harm, we conclude the responsive information may not be withheld pursuant to section 552.110.

Section 25.01(c) of the Tax Code provides as follows:

A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

Tax Code § 25.01(c). The effect of this provision is to make public the appraisal and "supporting data" that must be provided to the district. *See* Attorney General Opinion JC-0424 at 2 (2001) (section 25.01(c) provides that certain information used or created by appraisal firm must be made available to appraisal district and deems that information public). Exceptions to disclosure under the Act generally do not apply to information that is made public by other statutes, such as section 25.01(c). *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). You inform us the responsive information was provided to Pritchard, an outside appraiser that appraises certain properties for the district. However, neither you nor Pritchard informs us as to whether the submitted information constitutes supporting data for a final appraisal. Therefore, to the extent the responsive information constitutes supporting data for the purposes of section 25.01(c), such information is a public record which must be released to the requestor. *See* Tax Code § 22.27(b)(6) (information made confidential by section 22.27(a) may be disclosed if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain). To the extent the responsive information does not constitute supporting data for the purposes of section 25.01(c), we will consider your arguments.

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. 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 state, and Pritchard concurs, the responsive information was furnished to the district in conjunction with the appraisal of property and under promises of confidentiality. However, neither the district nor Pritchard explain whether the responsive information was submitted by property owners. Thus, to the extent the responsive information was furnished by property owners in connection with the appraisal of property and under a promise of confidentiality, we find 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 responsive information was not furnished by property owners 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.

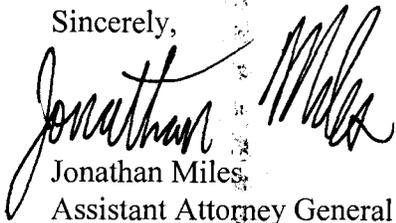
In summary, to the extent the responsive information constitutes supporting data for a final appraisal for the purposes of section 25.01(c) of the Tax Code, such information is a public record which must be released to the requestor. Otherwise, to the extent the responsive information was furnished to the district by property owners in connection with the appraisal of property and under a promise of confidentiality, we find such information is confidential under section 22.27(a) of the Tax Code, and must be withheld under section 552.101 of the Government Code. Any remaining responsive information 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,

A handwritten signature in black ink, appearing to read "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/som

Ref: ID# 449126

Enc. Submitted documents

c: Requestor
(w/o enclosures)