



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2012

Mr. Mark Price
Chief Appraiser
Brazos County Appraisal District
1673 Briarcrest Drive, Suite A-101
Bryan, Texas 77802

OR2012-15674

Dear Mr. Price:

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# 466794.

The Brazos County Appraisal District (the "district") received a request for the database of sales underlying the 2012 appraisals for all properties in Brazos County and the audio recording and any transcript pertaining to a specified hearing. You state the district will release some responsive information to the requestor. You claim the remaining requested information is excepted from disclosure under section 552.149 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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

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

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. Information obtained under this subsection:

(1) remains confidential in the possession of the property owner or agent; and

(2) may not be disclosed or used for any purpose except as evidence or argument at the hearing on the protest.

Gov't Code § 552.149(a), (b). Section 552.149 applies only to counties that have a population of more than 50,000. *Id.* § 552.149(e). We note Brazos County has a population of 50,000 or more. The legislative history of the statutory predecessor to section 552.149 indicates it was enacted as a result of the issuance of several open records rulings of this office in which we ruled information provided by multiple listing services to appraisal districts under confidentiality agreements is subject to required public disclosure under the Act. House Comm. On State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). Because of these rulings, many multiple listing services stopped providing sales information to appraisal districts. The bill analysis of House Bill 2188 states the purpose of this statute is to allow the relationships between multiple listing services and appraisal districts to continue. *Id.*

You state the submitted information relates to the sale of real property and was provided to the district by private entities. Based on this representation, we find the submitted information is confidential under section 552.149(a) of the Government Code. As you acknowledge, section 552.149(b) provides a property owner or the owner's designated agent a right of access to certain information that is otherwise confidential under section 552.149(a). The request reveals the requestor is a property owner who had been protesting the valuation of his property by the district. You state a hearing on the requestor's protest was held by the Brazos County Appraisal Review Board ("ARB") on July 12, 2012. You have provided a copy of the final order of the ARB. You represent that on the date the district received the request for information, the requestor was not a party to any protest against the district. Thus, based on your representations and our review, we agree the district

must withhold the information obtained from a private entity under section 552.149(a) 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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/som

Ref: ID# 466794

Enc. Submitted documents

c: Requestor
(w/o enclosures)