



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 24, 2012

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

OR2012-17024

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# 468771.

The Cameron County Appraisal District (the "district"), which you represent, received a request for (1) sales grids, sales maps, listing grids, listing maps, and "Equity Comps Maps" pertaining to specified tracts of land during a specified time period, (2) warranty deeds, sales surveys, or property verification cards for a specified area during a specified period of time, and (3) surveys introduced by protesting property owners for property appraisal protests or arbitration concerning a specified area during a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note you have only submitted information responsive to the third category of the request to our office. Thus, to the extent additional responsive information existed and was maintained by the district on the date the district received the request for information, we presume the district has released it. If not, the district must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental

body concludes that no exceptions apply to requested information, it must release the information as soon as possible).

Next, the requestor asserts she was not timely notified of the district's request for a ruling from this office as required by section 552.301(d) of the Government Code. *See* Gov't Code § 552.301(d) (governmental body must provide requestor with copy of governmental body's written communication to attorney general asking for decision). Pursuant to section 552.302, a governmental body's failure to timely provide the requestor with a copy of its written communication to this office results in the presumption that the information is public. We note the district's request for a decision to this office was timely submitted and shows it was copied to the requestor. This office is unable to resolve disputes of fact in the open records ruling process. Accordingly, we must rely upon the facts alleged to us by the governmental body requesting our opinion, or upon those facts that are discernable from the documents submitted for our inspection. *See* Open Records Decision No. 522 at 4 (1990). Based on the submitted information, we find the district complied with the procedural requirements of section 552.301(d) in copying the requestor on the correspondence requesting this ruling.

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 provides 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 the submitted information was furnished to the district by property owners in connection with the appraisal of property, and does not consist of sales price information. It does not appear that any of the exceptions in section 22.27(b) apply in this instance. Based on your representations and our review, we find the submitted information, as information provided by property owners in connection with the appraisal of their property, is generally confidential under section 22.27 of the Tax Code.

However, the requestor asserts she has a right of access to the submitted information pursuant to section 25.195 of the Tax Code. Section 25.195(a) of the Tax Code provides:

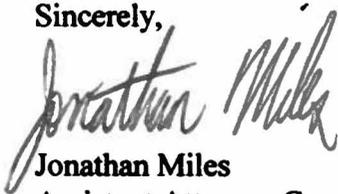
After the chief appraiser has submitted the appraisal records to the appraisal review board as provided by Section 25.22(a), a property owner or the owner's designated agent is entitled to inspect and copy the appraisal records relating to property of the property owner, together with supporting data, schedules, and, except as provided by Subsection (b), any other material or information held by the chief appraiser or required by Section 25.01(c) to be provided to the appraisal district under a contract for appraisal services, including material or information obtained under Section 22.27, that is obtained or used in making appraisals for the appraisal records relating to that property.

Id. § 25.195(a). Section 25.195(a) grants a property owner a specific right of access to appraisal records relating to the property of the property owner and supporting data, schedules, and other information obtained or used in making appraisals for the appraisal records relating to that property. Section 25.195(a) also provides the owner of property has a right of access to information subject to section 22.27 if such information is used or obtained in making appraisals for the appraisal records concerning that property, except as provided by subsection (b). *Id.* The requestor asserts that the submitted information was used in making appraisals of her property. The district, however, informs us that “[t]he District does not plan to introduce any of the [submitted] information [in connection with the requestor’s protest], and none of [the submitted] information is anything that the Chief appraiser took into consideration, but does not plan to introduce at the hearing.” Thus, we understand the district to assert that the information at issue was not used or obtained for making an appraisal of the requestor’s property. The issue of whether information was obtained or used for making an appraisal of the requestor’s property for purposes of section 25.195 is a question of fact. As noted above, this office cannot resolve disputes of fact in its decisional process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4, 435 at 4 (1986). Where a fact issue cannot be resolved as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our opinion, or upon those facts that are discernable from the documents submitted for our inspection. *Id.* Therefore, we determine the requestor has not established a right of access to the submitted information under section 25.195 of the Tax Code. Accordingly, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 468771

Enc. Submitted documents

c: Requestor
(w/o enclosures)