



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 23, 2013

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

OR2013-01288

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# 477397.

The Cameron Appraisal District (the "district"), which you represent, received two requests from the same requestor for five categories of information related to certain specified properties during a particular time period. You claim the submitted information, which you state is responsive to categories four and five of the request, 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.

Initially, we note you have only submitted information responsive to the fourth and fifth categories 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* Gov't Code §§ 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).

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.

(b) Information made confidential by this section may be disclosed:

...

(2) to the person who filed the statement or report or the owner of property subject to the statement, report, or information or to a representative of either authorized in writing to receive the information[.]

Tax Code § 22.27(a), (b)(2). You state Exhibit C 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 Exhibit C, as information provided by property owners in connection with the appraisal of their property, is confidential under section 22.27 of the Tax Code.

The requestor asserts a right of access to this information pursuant to the court order appointing him receiver of the properties at issue. Whether the requestor is the authorized representative of the property owner for purposes of section 22.27(b)(2) is a question of fact. This office cannot resolve disputes of fact in its decisional process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See* ORD 552 at 4. Accordingly, we must accept the district's representation that the requestor, as a court-appointed receiver, is not the authorized representative of the property owner. Therefore, we find the requestor does not have a right of access under section 22.27(b)(2). Accordingly, the district must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code.

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 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 Cameron 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 Exhibit D was obtained by the district from a local multiple listing service. You do not inform us the information at issue pertains to property for which the district's valuation is under protest by the requestor as the property owner or property owner's agent. *See* Gov't Code § 552.149(b). Therefore, the district must withhold Exhibit D under section 552.149(a) of the Government Code.

In summary, the district must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code. The district must withhold Exhibit D 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](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/dls

Ref: ID# 477397

Enc. Submitted documents

c: Requestor  
(w/o enclosures)