



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 5, 2013

Mr. Michael B. Gary  
Legal Counsel  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-0975

OR2013-03696

Dear Mr. Gary:

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# 480413 (HCAD Ref. # 12-3821).

The Harris County Appraisal District (the "district") received a request for specified property transaction reports for a specified time period. You claim that the submitted information is excepted from disclosure under section 552.149 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of PropertyInfo Corporation ("PropertyInfo"). Accordingly, you notified PropertyInfo of the request and of its right to submit arguments to this office as to why its information should not be released. *See Gov't Code* § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from an attorney for PropertyInfo. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the request seeks to place a standing request for the specified information on a monthly basis. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See Gov't Code* §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See Open Records Decision* Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing

request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of documents the district maintained or had a right of access to as of the date it received this request.

Section 552.149 of the Government Code provides, in relevant part, as follows:

(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[.]

Gov't Code § 552.149(a)-(b). Subsections 552.149(a) and (b) are limited to those counties having a population of 50,000 or more. *Id.* § 552.149(a). We note Harris 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 the multiple listing service (the "MLS") 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 MLS agencies 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 the MLS and appraisal districts to continue. House Comm. on State Affairs, Bill Analysis, Tex. Comm. Substitute H.B. 2188, 80th Leg., R.S. (2007). In this instance, you state the submitted information relates to real property sales and was provided to the district by PropertyInfo. You state the requestor is not the owner of any of the properties at issue or the agent of such an owner. Based on your representations and our review, we find the district must withhold the submitted information under section 552.149(a) of the Government Code.<sup>1</sup>

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<sup>1</sup>As our ruling is dispositive, we need not consider Propertyinfo's arguments against disclosure.

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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 480413

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

PropertyInfo Corporation  
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(third party w/o enclosures)