



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2013

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

OR2013-04647

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# 481927 (HCAD Internal Reference No. 12-3916).

The Harris County Appraisal District (the "district") received a request for the following information: (1) "all expert reports prepared by [district] appraisers working in Review Appraisal for [only] those lawsuits that have been finally resolved" and are not pending litigation; (2) all reports "prepared by Review Appraisal appraisers that are not styled as 'Expert Reports' for [only] those lawsuits that have been finally resolved in . . . 2012 and are no longer pending litigation"; (3) information pertaining to the district's "iSettle program" for a specified time period; (4) information pertaining to the district's use of ISD ratio calculation in informal protest meetings; and (5) information pertaining to a specified program and direct communications with district appraisers for a specified time period. You claim the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted information.

Initially, you state the district received the request for information on December 28, 2012. You explain you sent the requestor a cost estimate and request for a deposit for payment of these charges for providing some of the requested information. *See* Gov't Code §§ 552.2615, .263(a). You assert the request for information was withdrawn by operation of law for failure to timely respond to the cost estimate for providing some of the requested records. Upon review of a copy of the cost estimate, we find it does not comply with the

requirements of section 552.2615(a) of the Government Code because it did not inform the requestor that inspection is an available less costly method of obtaining the requested information. *See id.* § 552.2615(a); *see also id.* § 552.263(a)(1). Accordingly, we conclude the request for information was not withdrawn by operation of law.

You contend the submitted information is not public information subject to the Act. The Act is applicable only to “public information.” *See id.* §§ 552.002, .021. Section 552.002(a) provides that “public information” consists of the following:

[I]nformation that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). However, in Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code.

You explain the submitted information consists of computer program documentation, including source codes, flow charts, and comments. You further explain this information “document[s] the development and implementation of the computer system used as a tool for [the district’s] management.” Based on your representations and our review, we agree the information we have marked does not constitute public information for the purposes of section 552.002. Therefore, the marked information is not subject to the Act, and the district need not release that information in response to this request. However, we find the remaining information is maintained by the district in connection with the transaction of official district business and has significance other than as a tool for the maintenance, manipulation, or protection of public property. Accordingly, the remaining information is subject to the Act and may be withheld only if it falls within the scope of an exception to disclosure. *See* Gov’t Code §§ 552.301, .302. As you raise no exceptions to disclosure for the remaining information, it 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 that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 481927

Enc. Submitted documents

c: Requestor
(w/o enclosures)