



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 24, 2013

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

OR2013-08711

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# 488404 (HCAD # 13-1601).

The Harris County Appraisal District (the "district") received a request for the "mid report for 2012" for a specified business. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant request because they do not pertain to the specified business. This ruling does not address the public availability of non-responsive information, and the district is not required to release non-responsive information in response to this request.

Next, we must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to subsection 552.301(b) of the Government Code, a governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *See id.* § 552.301(b). Pursuant to subsection 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the

documents. *See id.* § 552.301(e)(1)(D). You inform us the district received the request for information on March 5, 2013. You do not inform us the district was closed for any business days between March 5, 2013, and March 26, 2013. Accordingly, you were required to provide the information required by subsection 552.301(b) by March 19, 2013, and you were required to provide the information required by subsection 552.301(e) by March 26, 2013. However, the envelope in which the district provided the information required by subsection 552.301(b) was meter-marked March 20, 2013. Additionally, the envelope in which the district provided the information required by subsection 552.301(e) was meter-marked March 27, 2013. *See id.* Accordingly, we conclude the district failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 of the Government Code results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *Id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Because the district's claim under section 552.101 of the Government Code can provide a compelling reason for non-disclosure under section 552.302, we will address your argument under that exception.

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. Section 22.27 of the Tax Code provides the following:

(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). We understand the district is an “appraisal office” for purposes of section 22.27(a). You state the submitted information consists of confidential income and expense information provided by the property owner under a promise of confidentiality. However, we note the requestor may be the authorized representative of the owner of the property at issue and thus may have a right of access to the responsive information that would otherwise be confidential under section 22.27. *See id.* § 22.27(b)(2). Thus, we must rule conditionally. If the requestor provides the requisite written authorization pursuant to section 22.27(b)(2) of the Tax Code, the district must release the responsive information to this requestor. If the requestor does not provide the requisite written authorization under section 22.27(b)(2), the district must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 22.27(a) 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 488404

Enc. Submitted documents

c: Requestor
(w/o enclosures)