



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 18, 2013

Mr. Ryan T. Miller
Legal Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2013-16226

Dear Mr. Miller:

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# 499647 (HCAD Reference No. 13-2930).

The Harris County Appraisal District (the "district") received a request for information provided to the district by the owners of a specified property in connection with the district's appraisal of the property, and any information provided by the property owner to the district relating to the value of the property for the years 2010, 2011, 2012, and 2013. You claim the submitted information is excepted from disclosure under sections 552.101, 552.136, and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, portions of which consist of representative samples.¹

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 § 552.301. This section encompasses information protected by other statutes. Section 22.27 of the Tax Code provides the following:

¹We assume that the "representative samples" of records submitted to this office are truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 indicate the district is an “appraisal office” for purposes of section 22.27(a). You state the information in Exhibits D-1 and D-2 was provided by the property owner and consists of evidence submitted by the property owner for an Appraisal Review Board hearing. Thus, we understand you to contend the information at issue consists of “other information the owner of property provides to the appraisal office in connection with the appraisal of the property.” You state the exceptions in section 22.27(b) do not apply in this instance. Based on your representations and our review of the information at issue, we find the district must withhold the information in Exhibits D-1 and D-2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.

Section 552.136 of the Government Code states “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). You represent the iFile numbers in the requested information can be used

to access confidential property information that is valuable to property owners and third party professionals involved in the protests of property tax appraisals. Based on your representations and our review, we agree the iFile numbers at issue are access device numbers for purposes of section 552.136(a). Accordingly, the district must withhold the iFile numbers, which you have marked, under section 552.136(b) of the Government Code.

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[.]

Id. § 552.149(a)-(b). The Eighty-second Texas Legislature amended section 552.149 to limit the applicability of subsections 552.149(a) and (b) to those counties having a population of 50,000 or more. *Id.* § 552.149(e). 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. *Id.* In this instance, we understand the information you have submitted as Exhibits C-1, C-2, C-3, and C-4 relates to real property sales and was provided to the district by private entities. You state the requestor is not the owner of the property at issue or the agent of the owner. Based on your representations and our review, we find the district must withhold the information in Exhibits C-1, C-2, C-3, and C-4 under section 552.149(a) of the Government Code.

In summary, the district must withhold the information in Exhibits D-1 and D-2 under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code, the iFile numbers you have marked under section 552.136(b) of the Government

Code, and the information in Exhibits C-1, C-2, C-3, and C-4 under section 552.149(a) of the Government Code. The district must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/bhf

Ref: ID# 499647

Enc. Submitted documents

c: Requestor
(w/o enclosures)