



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2013

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

OR2013-18477

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# 503259 (HCAD Internal Reference Nos. 13-3330 and 13-1568).

The Harris County Appraisal District (the "district") received two requests for a detail listing of all vehicles and personal property belonging to a named company for the years 2011 and 2013 from the same requestor. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, you acknowledge, and we agree, the district did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision with respect to the first request. *See* Gov't Code § 552.301(b). When a governmental body fails to comply with the procedural requirements of section 552.301, the information at issue is presumed public and must be released unless there is a compelling reason to withhold it.

¹We note that although you originally raised Chapter 730 of the Transportation Code in conjunction with section 552.101 of the Government Code, you provided no arguments as to the applicability of Chapter 730. *See* Gov't Code §§ 552.301, .302. Accordingly, we assume you have withdrawn your claim under Chapter 730.

²We assume that the "representative sample" of records submitted to this office is 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.

See 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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing the information is made confidential by another source of law or affects third party interests. *See* 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 of the Government code, we will address your argument under this 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 information at issue consists of confidential information provided to the district by the property owner in connection with the appraisal of the

property. *See id.* § 22.27(a). 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 requested 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 requested information to this requestor.³ If the requestor does not provide the requisite written authorization under section 22.27(b)(2), the district must withhold the information at issue 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.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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 503259

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note to the extent the information is released, it consists of information to which the requestor has a right of access. *See* Tax Code § 22.27(b)(2). Because such information may be confidential with respect to the general public, if the district receives another request for this information from a different requestor, the district must again seek a ruling from this office.