



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 25, 2013

Ms. Catelyn H. Kostbar  
Legal Services Division  
Harris County Appraisal District  
P.O. Box 920975  
Houston, Texas 77292-0975

OR2013-20521

Dear Ms. Kostbar:

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# 508859 (HCAD Ref.# 13-1258).

The Harris County Appraisal District (the "district") received a request for the 2012 property renditions for five specified accounts. You state the district has no responsive information for two of the accounts.<sup>1</sup> We understand you have released the requested information for one of the accounts. You claim the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note, and you acknowledge, the district did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this ruling. *See*

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist at the time the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

Gov't Code § 552.301(b), (e). Pursuant to section 552.302, a governmental body's failure to comply with the requirements of section 552.301 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. *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); Open Records Decision No. 319 (1982). This statutory presumption can generally be overcome when information is confidential by law or third-party interests are at stake. *See* Open Records Decision No. 630 (1994). Because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will address the applicability of this exception to the information at issue.

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. Section 552.101 encompasses section 22.27 of the Tax Code, which 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) and you state the submitted information consists of confidential information provided to the district pursuant to section 22.27(a) of the Tax Code. We note the requestor may be the authorized agent of the owner of the properties at issue and, therefore, 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); *see also id.* § 1.111 (governing property owner’s authority to designate agent to act on owner’s behalf in property tax matters). Thus, we agree that if the requestor does not provide the requisite written authorization under section 22.27(b)(2), then 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. However, if the requestor provides the requisite written authorization pursuant to section 22.27(b)(2) of the Tax Code, the district may not withhold the information at issue from this requestor on the basis of section 552.101 and instead must release the 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](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,



Miriam A. Khalifa  
Assistant Attorney General  
Open Records Division

MAK/eb6

Ref: ID# 508859

Enc. Submitted documents

c: Requestor  
(w/o enclosures)