



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2013

Mr. Eddie Chalmers, RPA, CTA, CCA
Chief Appraiser
Tyler County Appraisal District
P.O. Drawer 9
806 West Bluff
Woodville, Texas 75979

OR2013-21170

Dear Mr. Chalmers:

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# 507724.

The Tyler County Appraisal District (the "district") received a request for records pertaining to any protest from or on behalf of Ideal Abilities regarding a specified property. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.149 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.149 of the Government Code provides, in relevant part:

- (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].

Gov't Code § 552.149(a). The Eighty-Second Texas Legislature amended section 552.149 to limit the applicability of section 552.149(a) to those counties having a population of 50,000 or more. *See id.* § 552.149(e). We note Tyler County has a population of less than 50,000.¹ Accordingly, section 552.149 is not applicable to the submitted information and the district may not withhold any of it on that basis.

¹The population of Tyler County was 21,766 in 2010. U.S. Bureau of the Census, State and County Quick Facts, available at <http://quickfacts.census.gov/qfd/states/48/48457.html>.

Section 552.101 of the Government Code exempts 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, in relevant part, 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.

Tax Code § 22.27(a). We understand the district is an "appraisal office" for purposes of section 22.27(a). You state the information you have marked was provided 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." We have no indication the exceptions in section 22.27(b) apply in this instance. Based on your representations and our review of the information at issue, we find the district must generally withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code and must release the remaining information.

We note, however, the requestor is a revenue officer with the Internal Revenue Service (the "IRS"), who states he is requesting the information at issue pursuant to section 6333 of title 26 of the United States Code. Section 6333 provides:

If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of any books or records, containing evidence or statements relating to the property or right to property subject to levy, shall, upon demand of the Secretary [of the Treasury], exhibit such books or records to the Secretary [of the Treasury].

26 U.S.C. § 6333. If applicable, we find section 6333 gives the IRS a special right of access to the information at issue. Under the Supremacy Clause of the United States Constitution, the United States Constitution and duly-enacted federal statutes are "the supreme law of the Land," and states have a responsibility to enforce federal law. *See* U.S. Const., art. VI, cl. 2; *Howlett v. Rose*, 496 U.S. 356, 367-69 (1990). As a federal law, the right of access provided by section 6333 preempts any conflicting state provisions, such as section 22.27 of the Tax

Code. *See Equal Employment Opportunity Comm'n v. City of Orange, Tex.*, 905 F. Supp. 381, 382 (E.D. Tex. 1995) (federal law prevails over inconsistent provision of state law). Accordingly, if a levy has been made or is about to be made on the specified property or right to the specified property, the district must release the submitted information in its entirety to the requestor pursuant to section 6333 of title 26 of the United States Code.

In summary, the district must generally withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code and must release the remaining information. However, if a levy has been made or is about to be made on the specified property or right to the specified property, the district must release the submitted information in its entirety to the requestor pursuant to section 6333 of title 26 of the United States Code.²

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 507724

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²In this instance, the information being released is confidential with respect to the general public. Therefore, if the district receives another request for this information from a different requestor, the district must again seek a ruling from this office.