



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 2, 2014

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

OR2014-00069

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# 509659 (HCAD No. 13-1179).

The Harris County Appraisal District (the "district") received a request for information pertaining to a specified account.<sup>1</sup> You indicate some of the requested information will be released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>You state the district sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<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 those submitted to this office.

Initially, you acknowledge, and we agree, the district failed to comply with section 552.301 of the Government Code in seeking an open records decision from this office. *See* Gov't Code § 552.301(b), (e). A governmental body's failure to comply with the procedural requirements of the Act results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason 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). The presumption that information is public under section 552.302 can be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Because section 552.101 and section 552.130 of the Government Code can provide compelling reasons to withhold information, we will consider the applicability of these exceptions to the submitted information.

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:

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(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 the submitted information consists of confidential information provided to the district by a property owner for property tax purposes. *See id.* § 22.27(a). However, we note the requestor may be the authorized representative of the owner of the account at issue and, therefore, may have a right of access to the submitted information that would otherwise be confidential under section 22.27. *See id.* § 22.27(b)(2). Thus, we find, if the requestor does not provide the requisite written authorization under section 22.27(b)(2), then the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code.<sup>3</sup> However, if the requestor provides the requisite written authorization pursuant to section 22.27(b)(2), the district may not withhold the submitted information from this requestor under section 552.101 in conjunction with section 22.27(a) of the Tax Code.

In that event, we address your claim under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(2). We note section 552.130 protects personal privacy. In the event the requestor is the authorized representative of the property owner at issue, she also has a special right of access to the motor vehicle information of the owner she represents pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond the right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987). We note section 552.229(a) of the Government Code provides consent for release of information available under section 552.023 must be in writing and signed by the person or the person’s authorized representative. Gov’t Code § 552.229(a). Thus, under section 552.023, with proper authorization from the property owner at issue, the requestor in this case would have a right of access to information that would ordinarily be withheld under section 552.130 to protect the property owner’s privacy interests. In this instance, the district may not withhold any of the information at issue under section 552.130 of the Government Code.

In summary, if the requestor does not provide the requisite written authorization under section 22.27(b)(2), then the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 22.27(a) of the Tax Code. If the requestor provides the requisite written authorization pursuant to

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<sup>3</sup>In this event, our ruling is dispositive and we need not address your remaining argument against disclosure under section 552.130 of the Government Code.

section 22.27(b)(2) of the Tax Code, the district must release the submitted information to the requestor.

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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal flourish extending to the right.

Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 509659

Enc. Submitted documents

c: Requestor  
(w/o enclosures)