



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 5, 2014

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

OR2014-02212

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# 513276 (HCAD Internal Reference No. 13-3258).

The Harris County Appraisal District (the "district") received a request for information pertaining to a specified account. The district states it will provide some of the requested information to the requestor, but claims the remaining requested 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>1</sup>

Initially, you acknowledge, and we agree, the district failed to comply with the procedural requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). A governmental body's failure to comply with the procedural requirements of section 552.301 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

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<sup>1</sup> We 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.

S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can generally be overcome by demonstrating the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Sections 552.101 and 552.130 of the Government Code can provide compelling reasons to overcome this presumption. Therefore, we will consider whether these sections require the district to withhold 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. This section encompasses information made confidential by other statutes, such as section 22.27 of the Tax Code, which provides in part 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 the information at issue 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 property owners at issue and, therefore, may have a right of access to the information at issue that would otherwise be

confidential under section 22.27. *See id.* § 22.27(b)(2). Thus, we find 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, then the district may not withhold the information at issue from this requestor under section 552.101 on that basis.

In that event, you raise section 552.130 of the Government Code for some of the information. Section 552.130(a)(2) 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, he also has a special right of access to the motor vehicle information of the owner he 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, pursuant to 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 information at issue 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 section 22.27(b)(2) of the Tax Code, then the district must release the information at issue 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 "J. Behnke", with a long horizontal line extending to the right.

Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/eb

Ref: ID# 513276

Enc. Submitted documents

c: Requestor  
(w/o enclosures)