



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 17, 2014

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

OR2014-10428

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# 526065 (HCAD Ref. No. 14-1646).

The Harris County Appraisal District (the "district") received a request for the 2012 and 2013 property tax renditions for two specified accounts. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

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<sup>1</sup>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. *See* Gov't Code § 552.301(b), (e). However, because the district's claims under sections 552.101 and 552.130 of the Government Code can provide compelling reasons for non-disclosure under section 552.302, we will address your arguments under those exceptions. *See* Open Records Decision No. 150 at 2 (1977).

<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 § 552.101. This section encompasses information protected by other statutes, such as section 22.27 of the Tax Code, which provides in pertinent part:

(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 might be the authorized agent of the owner of the property at issue and, therefore, might have a right of access to the submitted 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 submitted information 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 written authorization pursuant to section 22.27(b)(2) of the Tax Code, the district may not withhold the submitted information from this requestor on the basis of section 552.101 of the Government Code. In that instance, we will consider your remaining arguments.

Section 552.101 of the Government Code also encompasses information made confidential by section 23.123 of the Tax Code, which provides in relevant part:

(a) In this section:

...

(4) "Declaration" has the meaning given it in Section 23.122 of this code.

...

(6) "Statement" has the meaning given it in Section 23.122 of this code.

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by Section 23.121 or Section 23.122 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122;

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or

(8) to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

Tax Code § 23.123(a)(4), (a)(6), (b), (c). To reiterate, section 23.123(a) provides the terms “declaration” and “statement” have the meanings given to those terms in section 23.122 of the Tax Code. We note that section 23.122(a)(5) of the Tax Code states “[d]eclaration” has the meaning given it in section 23.121.” *Id.* § 23.122(a)(5). Section 23.121(a)(6) defines “declaration” as the Dealer’s Motor Vehicle Inventory Declaration form required by section 23.121. *Id.* § 23.121(a)(6), (f). Further, section 23.122(a)(9) of the Tax Code defines “statement” as the Dealer’s Motor Vehicle Inventory Tax Statement required by section 23.122. *Id.* § 23.122(a)(9), (e), (f). Upon review, we find you have failed to demonstrate how the submitted information consists of a declaration or statement as defined by section 23.122 of the Tax Code. Accordingly, no portion of the submitted information may be withheld under section 552.101 of the Government Code on that basis.

Section 552.130 of the Government Code 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 owner of the property at issue, then she also has a special right of access to the motor vehicle record 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). In that case, the district may not withhold any of the submitted information 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) of the Tax Code, 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 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 that reads "Britni Fabian". The signature is written in a cursive, flowing style.

Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/tch

Ref: ID# 526065

Enc. Submitted documents

c: Requestor  
(w/o enclosures)