



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 30, 2014

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

OR2014-17369

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# 537802 (HCAD Account Ref. No. 14-2055).

The Harris County Appraisal District (the "district") received a request for two categories of information pertaining to fourteen specified accounts. You claim the submitted information is exempted from disclosure under sections 552.101 and 552.149 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

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. Section 552.101 encompasses section 22.27 of the Tax Code, which provides:

(a) Rendition statements, real and personal property reports, attachments to those statements and reports, and other information the owner of property

---

<sup>1</sup>We note, and you acknowledge, the district did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because the exceptions you claim can provide compelling reasons to overcome the presumption of openness, we will consider your claimed exceptions for the submitted information. *See id.* §§ 552.007, .302, .352.

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 was “rendered to the [district] pursuant to section 22.27(a) of the Tax Code.” However, you do not explain to what extent the submitted information was provided by property owners in connection with an appraisal for purposes of section 22.27(a) of the Tax Code. Further, you do not explain whether the submitted sales price information was submitted by property owners under a promise of confidentiality. Thus, we must rule conditionally. To the extent any of the submitted information was provided by property owners in connection with an appraisal, the district must withhold such information under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code; however, any sales price information may be withheld only if it was submitted by property owners under a promise of confidentiality. To the extent the submitted information was not provided by property owners in connection with an appraisal and to the extent any sales price information was not furnished by property owners under a promise of confidentiality, the information is not confidential under section 22.27(a) of the Tax Code and may not be withheld under section 552.101 of the Government Code on that basis.

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].

*Id.* § 552.149(a). The applicability of subsections 552.149(a) is limited to those counties having a population of 50,000 or more. *Id.* § 552.149(e). We note Harris County has a population of 50,000 or more. We find any sales price information provided by property owners without a promise of confidentiality is not confidential under section 552.149(a) of the Government Code because it was not provided by a private entity, and thus any such information may not be withheld on that basis. You indicate the remaining information includes information obtained from private entities. Therefore, we find to the extent the information you have marked relates to real property sales prices, descriptions, characteristics, and other related information that was provided to the district by private entities, the district must withhold it under section 552.149(a) of the Government Code. Conversely, to the extent the information you have marked does not relate to real property sales prices, descriptions, characteristics, and other related information or was not provided to the district by private entities, it is not confidential under section 552.149(a) and it may not be withheld on that basis.

We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, to the extent any of the submitted information was provided by property owners in connection with an appraisal, the district must withhold such information under section 552.101 of the Government Code in conjunction with section 22.27 of the Tax Code; however, any sales price information may be withheld only if it was submitted by property owners under a promise of confidentiality. To the extent information you have marked relates to real property sales prices, descriptions, characteristics, and other related information that was provided to the district by private entities, the district must withhold it under section 552.149(a) of the Government Code. Any remaining information must be released; however, any information subject to copyright may be released only in accordance with copyright law.

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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 537802

Enc. Submitted documents

c: Requestor  
(w/o enclosures)