

CAUSE NO. D-1-GN-07-004392

HARRIS COUNTY
APPRAISAL DISTRICT

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IN THE DISTRICT COURT

VS.

_____ JUDICIAL DISTRICT

GREG ABBOTT,
ATTORNEY GENERAL

TRAVIS COUNTY, TEXAS

HCAD'S PETITION
FOR DECLARATORY JUDGMENT

The Harris County Appraisal District ("HCAD"), files this Petition for Declaratory Judgment. HCAD seeks to challenge a decision of the Honorable Greg Abbott, Attorney General of the State of Texas, (the "Attorney General") made under authority of Subchapter G of the Texas Public Information Act and recorded in Informal Letter Ruling No. OR2007-16271.

I.

DISCOVERY

1.1 HCAD declares its intent to conduct discovery under Level 3 of Rule 190 of the TEXAS RULES OF CIVIL PROCEDURE.

II.

VENUE

2.1 Venue of this action is proper in Travis County, Texas pursuant to TEX. GOVT. CODE § 552.353, as amended. (Vernon Supp. 2007).

III.

NATURE OF THE ACTION

3.1 HCAD brings this action under the Uniform Declaratory Judgments Act, seeking an interpretation and construction by this court of the Texas Public Information Act and its application to certain records containing information received from private entities and relating to real property sales prices, descriptions, characteristics and other related information. *See* TEX. CIV. PRAC. & REM. CODE ANN. §§ 37.003, 37.004 (Vernon Supp. 2004).

3.2 HCAD also brings this action under authority of TEX. GOV'T CODE ANN. §§ 552.324, 552.325 and 552.353 (Vernon Supp. 2007).

IV.

PARTIES

4.1 The parties who would be affected by a decision in this action include the Attorney General, and the requestor, Dan Hart ("Hart"). The Attorney General, may be served with process at 300 W. 15th Street, Austin, Texas.

4.2 The requestor, Hart, has been served with written notice of the existence of this suit by certified mail, return receipt requested. Other interested parties will be similarly provided notice. A copy of the notice is attached hereto as "Exhibit A." *See* TEX. GOV'T CODE ANN. 552.325(b) (Vernon Supp. 2004).

V.

FACTUAL BACKGROUND

5.1 HCAD is a political subdivision of the State of Texas established under TEX. TAX CODE § 6.01 (Vernon Supp. 2004). HCAD maintains an office at 13013 Northwest Freeway, Houston, Texas, 77292, and is responsible for appraising property for ad valorem tax purposes

for all governmental taxing units in Harris County. There are currently more than 400 governmental taxing units in Harris County and approximately 1,600,000 separate parcels of property. HCAD is the third largest appraisal entity in the United States by population, and the second largest by parcel count.

5.2 HCAD and other appraisal districts obtain information on real property sales prices, descriptions, characteristics, and other related information from various sources for their use in appraising the market value of real property within their respective jurisdictions. HCAD stores this information in electronic form in its computer system. The computer system is used to prepare various reports that are used in the appraisal process and that contain the subject information. Some of these reports are printed out and used in the course of Appraisal Review Board hearings and are made a part of the hearing files. Additionally, the same information is sometimes recited orally during Board hearings and is captured on the electronic recordings of those hearings.

5.3 On September 27, 2007, HCAD received an e-mail from Dan Hart requesting the complete Board hearing files for three HCAD real property tax accounts. A true and correct copy of his e-mail is attached as Exhibit "B".

5.4 Several of the documents and other items contained in the requested files are protected, or contain information that is protected, from disclosure under § 552.148 of the Texas Government Code or § 22.27 of the Texas Tax Code.

5.5 On October 1, 2007, Kelly Sherbert, the Public Information officer for HCAD, wrote to the Attorney General requesting a determination that several of the items in the file were not public information that had to be provided to Hart under the Texas Public Information Act (the "Act"). A true and correct copy of Ms. Sherbert's letter is attached as Exhibit "C".

5.6 On December 10, 2007, the Attorney General issued an opinion, advising HCAD that some of the items that HCAD believes to be protected from disclosure are not protected and cannot be withheld. A true and correct copy of the Attorney General's opinion is attached as "Exhibit D".

VI.

CLAIMS

6.1 HCAD seeks a declaration of the Court that it is not required to disclose to Hart the items in the file that contain protected information. The Court has authority to grant such relief under the Declaratory Judgments Act and §§ 552.325 and 552.353 of the Texas Public Information Act ("PIA"). Those items are not public information within the meaning of the PIA. Alternatively, the requested information falls within one or more of the exceptions to the requirement of public disclosure contained in the PIA.

6.2 The requested items are protected from disclosure under § 552.148 of the Texas Government Code because they include "information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by .. the chief appraiser of an appraisal district" and under § 22.27 of the Texas Tax Code because they include "information the owner of property provides to the appraisal office in connection with the appraisal of property" that was "voluntarily disclosed to an appraisal office ... after a promise it will be held confidential... ."

VII.

PRAYER FOR RELIEF

7.1 For the reasons stated, HCAD prays that the Attorney General be cited to appear and answer, that the Court enter a judgment declaring that HCAD may withhold the subject

information under the Public Information Act, that the Court award HCAD its reasonable and necessary attorney's fees and costs, and that the Court award HCAD all other relief, at law and in equity, to which it may be entitled.

Respectfully submitted,

OLSON & OLSON, L.L.P.

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