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PUBLIC INFORMATION ACT

REQUIRES RECORDS OF PROPERTY TAX ASSESSMENT APPEAL BOARDS TO BE OPEN FOR PUBLIC INSPECTION EXCEPT THOSE RECORDS MADE CONFIDENTIAL BY ARTICLE 81, SECTION 45(d).

February 10, 1977.

Mr. William A. Badger, Administrator, Property Tax Assessment Appeal Boards.

You have asked for our opinion as to whether your office can establish a rule allowing the records of the property tax assessment appeals boards to be open to public inspection with certain exceptions. Generally, the rule would permit public inspection of the boards' various documents with the exception of assessment work cards, petitions or other correspondence or records containing building costs, appraisal information, rental data or investment returns relating to the particular property. In the course of deciding property tax assessment appeals pursuant to Article 81, Section 255(b) of the Maryland Annotated Code (1976 Cum. Supp.), the boards receive these various documents from taxpayers and assessors.

The Maryland Public Information Act, Article 76A (1975 Repl. Vol., 1976 Cum. Supp.) provides, in pertinent part, as follows:

Section 2(a). All public records shall be open for inspection by any person at reasonable times, except as provided in this article or as otherwise provided by law, but the official custodian of any public records may make such rules and regulations with reference to the inspection of such records as shall be reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

Section 1(a) of Article 76A defines "public records" as:

[A]ny paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing, or other document, regardless of physical form or characteristics, and including all copies thereof, that have been made by the State and any counties, municipalities and political subdivisions thereof and by any agencies of the State, counties, municipalities, and political subdivisions thereof, or received by them in connection with the transaction of public business, except those privileged or confidential by law.

We have no doubt that the various papers to which you have referred are papers which are received by the appeal boards in connection with the transaction of public business, the hearing of property tax assessment appeals. Consequently, those papers must be considered "public records" pursuant to Section 1(a) unless they are privileged or confidential by law or exempted from the Act and must, pursuant to Section 2(a) be open for public inspection.

Article 76A, Section 3 enumerates certain exceptions to the requirement of public inspection. Included among those exceptions is the following:

(c) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law:

* * * * *

(v) Trade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person;.....

Additionally, Article 81, Section 45(d) (1976 Repl. Vol.), requires the assessors to deny public inspection to assessment data enumerated as follows:

(d) Data which shall not be open to public inspection. — Assessment worksheets or cards, or correspondence containing private appraisal information, building costs, rental data or business volume,

which may have been assembled for consideration by assessors in estimating property values, shall not be open to public inspection, except by the taxpayer concerned, or officers of the State and/or city or county affected thereby.

In 56 Opinions of the Attorney General 461, 464 (1971), we stated that the information contained in Article 81, Section 45(d) would be considered "confidential, commercial [or] financial . . . data furnished by or obtained from any person" and that the disclosure of such information would not be permitted by Article 76A, Section 3(c)(v). Additionally, we stated that such information would be "confidential by law" and thus excluded from the definition of "public records" contained in Article 76A, Section 1(a). We concluded that the Department of Assessments and Taxation should not divulge such information.

We believe that the Public Information Act requires the appeal boards to permit any person at reasonable times to inspect any of its records except those enumerated in Article 81, Section 45(d). Those records enumerated in Section 45(d), including assessment worksheets or cards, building costs, appraisal information and rental data are protected from disclosure because they are "privileged or confidential by law" and, hence, not included within the definition of "public record" contained in Article 76A, Section 1(a). Additionally, such data is protected from disclosure by Article 76A, Section 3(c)(v).

Article 81, Section 224A authorizes the administrator of the property tax assessment appeal boards to promulgate rules governing the activities of the boards. Article 76A, Section 2(a) additionally authorizes the custodian of public records to make rules and regulations with regard to the inspection of those records. The subject of which records of the appeal boards will be open to public inspection, consistent with the requirements of Article 76A and Article

81, Section 45(d), and the appropriate time and place for inspection would be a suitable topic for the promulgation of a rule by the administrator.

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