



To Share or Not To Share...

That Is The Question



Overview of Confidentiality

Federal and state laws promote public access to most government records.

They also protect the private and confidential nature of certain information.

Utah's primary law on confidentiality is the Government Records Access and Management Act (GRAMA), Utah Code, Title 63G, Chapter 2.

GRAMA

- “A record is public unless otherwise *expressly* provided by statute.” [§63G-2-201(2)]
- What is not expressly restricted by GRAMA may be restricted by other statutes, rules or regulations. If they are more restrictive, they take precedence over GRAMA. [§63G-2-201(3) & (6)]

Confidential Information

Following are the most common categories of legal restrictions placed on property tax information designated as confidential.

- **GRAMA**
Government Records Access and Management Act (§63G-2-___)
- **Commercial**
Certain items of a commercial nature (§59-1-404)
- **MLS Contract**
Proprietary sales and listing information that is property of the Wasatch Front Regional Multiple Listing Service
- **USPAP**
Uniform Standards of Professional Appraisal Practice
- **Property Tax**
Specific information identified in property tax statutes & rules
- **Public**
All information that is not specifically designated as confidential

Confidential Categories

Law Category	GRAMA	Commercial	MLS Contract	USPAP	Property Tax	Public
Info	Transfer survey RatioLink Other	Com Sales Com Finance Cap Rates Inc & Exp Other com info	MLS Sales RatioLink	Appr Results Confid client Confid legal	PP Audits Motor Vehicle title/reg STC Hearings STC Work papers	Res Sales Property record
Steward	Gov employee	STC & County Cities & Towns Hearing party	STC & County	Appraiser		Gov employee
Source	Anyone	Any Taxpayer	MLS	Client Appraiser		Anyone
Permitted Use/ Recipient	Gov Employee	The Taxpayer Authorized STC & County Appraiser Hearing	Assessor Model Mkt Rpt Hearing	The Client Authorized Div RE Appr Board Hearing Third party		Any
Conditions		Flow chart Limitations	No sale chase 10 Sales	Flow chart		Non-MLS Non-Survey

GRAMA

GRAMA

Government Records Access Management Act

§63G-2-

Section 201 Rights to Access

Public unless otherwise provided by statute

Section 302 Private

Some personal identity, SS#, medical

Section 304 Controlled

Some medical, psychiatric, psychological

Section 305 Protected

Some financial, competitive, educational, employment, safety

PROPERTY TAX DIVISION

Record Series, Classification, Retention, and Access Report

<u>Title</u>	<u>Series #</u>	<u>Classification</u>	<u>Retention</u>	
Assessed value statistical report	2357	Public	5	
Deeds and assessment files	82951	Protected	5	
Natural resource appeals	9771	Protected	n/a	
Natural resource files	82949	Protected	5	
Natural resource records	2496	Public	30	
Natural resource tax returns	2476	Protected	30	
Personal property audits	8665	Protected	7	§63G-2-305(15)
Property tax appraisal worksheets	7294	Exempt	10	§63G-2-305(22)
Public utility records	4119	Public	30	
Public utility tax returns	2480	Protected	30	
Railroad maps	16509	Public	n/a	
County PT standards of practice	27971	Protected	5	
Real property transfer survey	16580	Protected	7	§63G-2-305(15)
Record of assessment	8655	Private	P	
Sales ratio study papers	6611	Protected	5	§63G-2-305(15)
Tax nomenclature files	82950	Public	7	
Tax rate certification files	6610	Public	7	
Uranium correspondence	82952	Protected	7	
Property tax utilities appeals	26696	Protected	7	
Agricultural rental questionnaires	9848	Private	5	
Annual rental studies	9773	Private/Public	5	
Assessed value statistical report	2357	Public	50	
Assessment certificates	16510	Public	7	
Assessor course materials	16577	Public	When updated	

Actual Example GRAMA Request

Reasons for denial

Copies of all communication directly or indirectly related to valuation?

Specificity 63G-2-201(7)(b)

All phone/verbal communication between Tax & county in transcript form?

Specificity 63G-2-201(7)(b)

Format 63G-2-201(8)(a)

All sales in county (residential & commercial, actual vs. disclosed)?

Specificity 63G-2-201(7)(b)

Create, compile, manipulate, tailor 63G-2-201(8)(a)

Commercial 59-1-404(2)

Private 63G-2-302(2)(d)

All PP audits: year, date, parcel, findings?

Protected 63G-2-305(15)

Commercial 59-1-404(2)

Private 63G-2-302(2)(d)

Property tax order, competitive disadvantage R861-1A-12(A)

Commercial

Commercial Info

§59-1-404

Recipients

Taxpayer
Taxpayer's official representative
Tax commission & counties

Third parties
Public

Appraisers
Hearings

Info

Taxpayer's
confidential

Public

Confidential

Independently
verified source

Third party
source

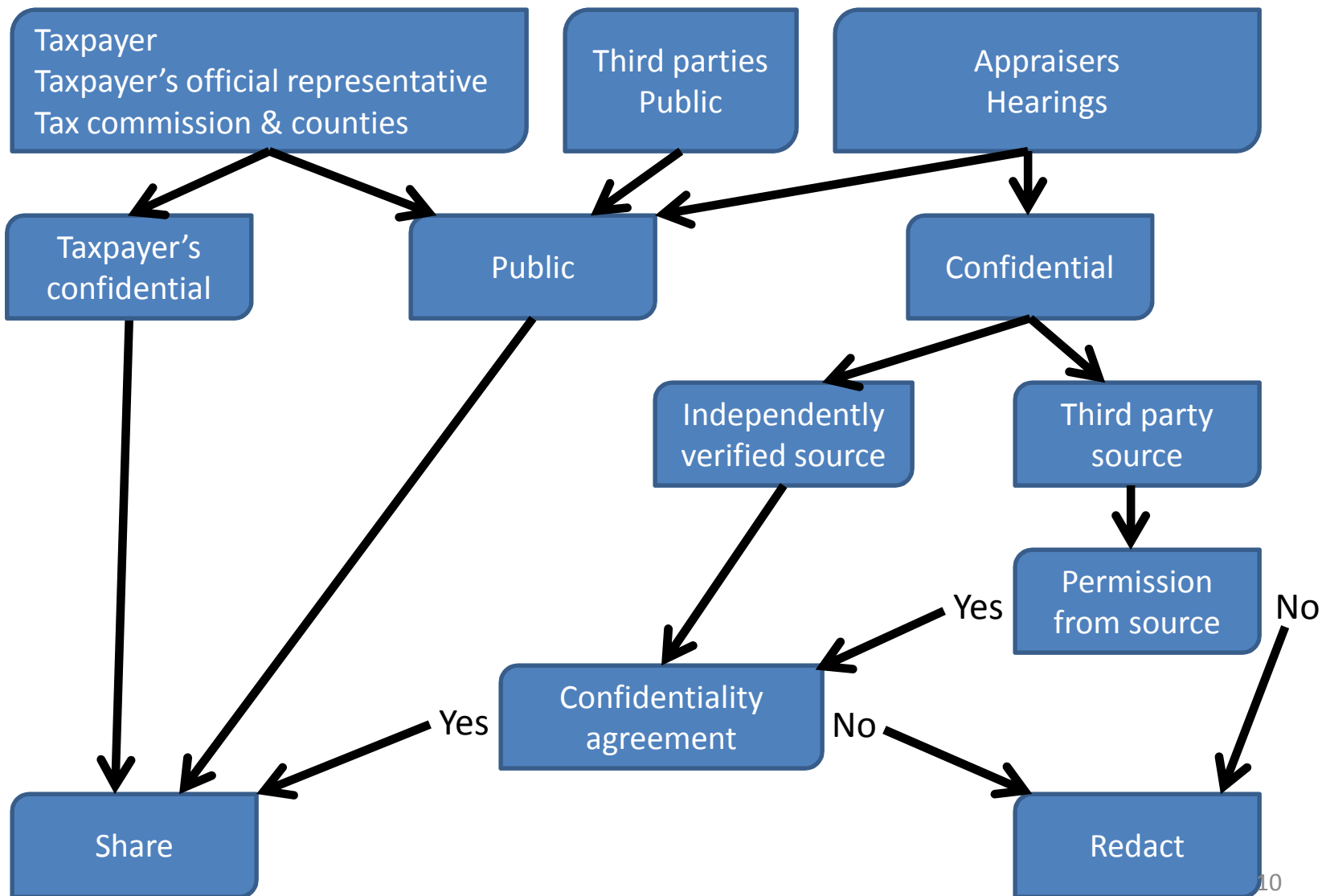
Action

Share

Confidentiality
agreement

Permission
from source

Redact



Commercial Info – *Specific Items*

Public

§59-1-404(3):

Assessed value
Tax rate
Legal description
Street address
Parcel number
Physical characteristics
Size of land and improvements
Name & mailing address of taxpayer
Property tax (assessed, due, collected,
abated, deferred)
Interest, penalties
Exempt status
Bankruptcy filing
Action or proceeding
Tax sale
Single-family residential info

Confidential

Commercial information*
Real Property Transfer Surveys**
Sales info in RatioLink**
Sales info from MLS***

* §59-1-404(2)

** Subject to GRAMA

*** Subject to contract

Commercial Information

Definition

§59-1-404(1)

1. Of a commercial nature
2. Obtained from a taxpayer
3. Regarding the taxpayer's property
4. Or derived from the above

Does not include information intended for public use

Confidential

Sales price (commercial)

Financing terms (commercial)

Cap rates

Income & expense

Anything not specifically listed as
public

Commercial Information

Recipients

§59-1-404



1. The taxpayer or authorized rep §59-1-404(5)
2. A purchaser of the property §59-1-404(5)
3. Tax Commission or county §59-1-404(7)
4. Publication of statistics without identity §59-1-404(5)
5. An appraiser* §59-1-404(8)
6. Legal action or proceedings* §59-1-404(4)

* Subject to restrictions

Commercial Information *Shared with an Appraiser* §59-1-404(8)

Share

Redact

1. Sales price
2. Financing terms
3. Cap rates on locally assessed
4. Income & expense on locally assessed

All other commercial information

An appraiser may share:

1. With Tax Commission, county, city, town (8)(b)(i)(A)
2. With an appraiser
3. In an appraisal if identity is removed
4. In a consultation service if identity is removed

Commercial Information

Shared in a Legal Action or Proceeding

§59-1-404(4) “...shall disclose...”

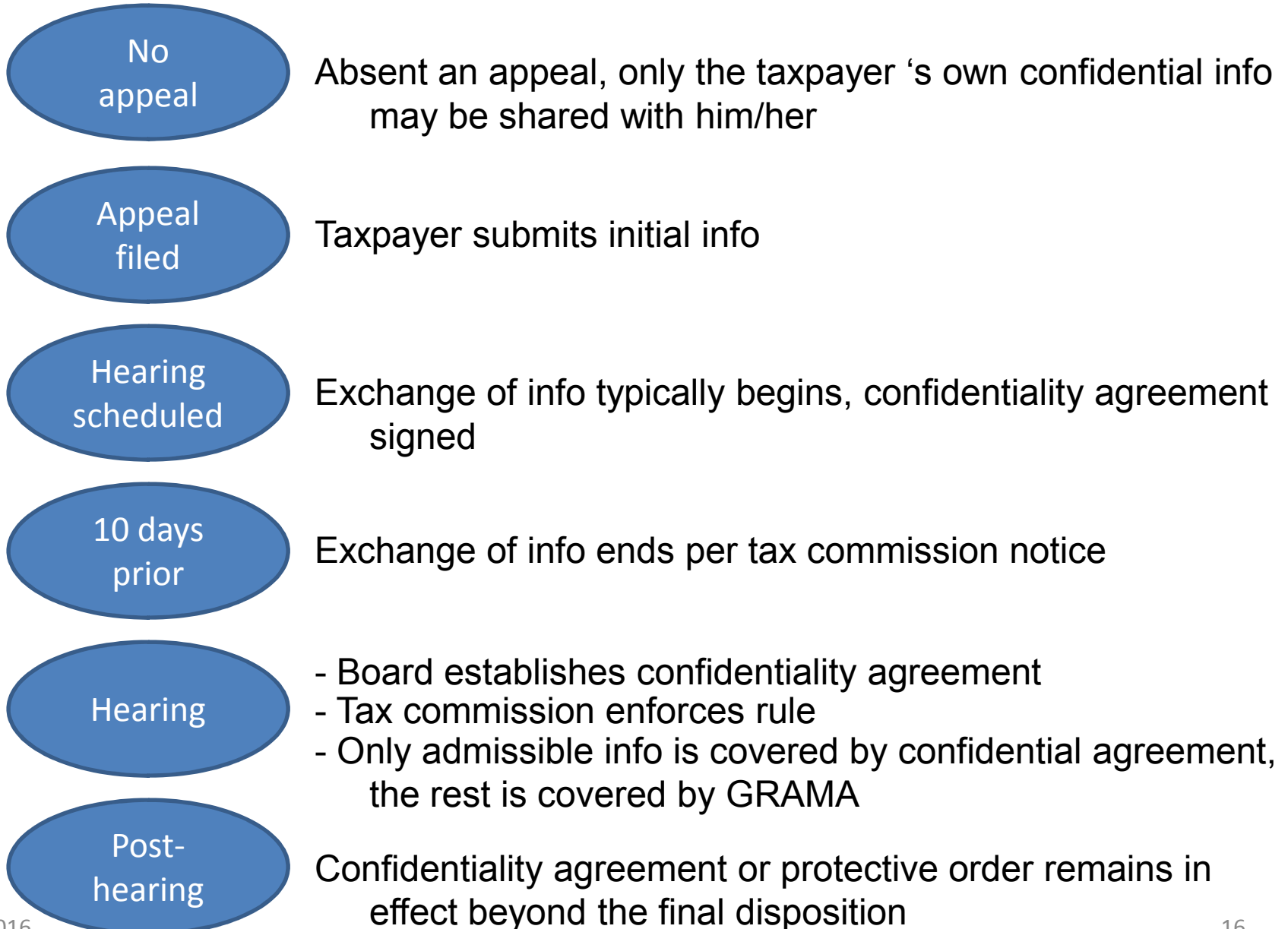
Share

1. In accordance with judicial order
2. On behalf of any party if info is directly involved
3. In preparation for an action or proceeding
4. From the following sources, if relevant, if they are not a party:
 - A real estate agent
 - An appraiser
 - A property manager
 - Another taxpayer

Confidentiality agreement

1. BOE takes action to ensure non-disclosure
2. Tax Commission enters a protective order or makes rules
3. Court enters a protective order
4. Exchanges prior to hearing should have confidentiality agreement

Commercial Appeal Scenario



MLS

MLS

Reciprocating Data Sharing and License Agreement

2. WFR Grant of License.

- Exclusive to assessor's internal business
- Models, market reports
- Up to 10 comps in appeals
- Prohibits sales chasing

6. Confidential Information.

- Confidential
- Court order – allow MLS 5 days to oppose

7. GRAMA.

- Business confidentiality under §63G-2-305 & 309

USPAP

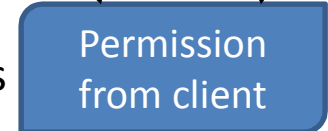
USPAP – Your Appraisal

USPAP, Ethics Rule, Confidentiality

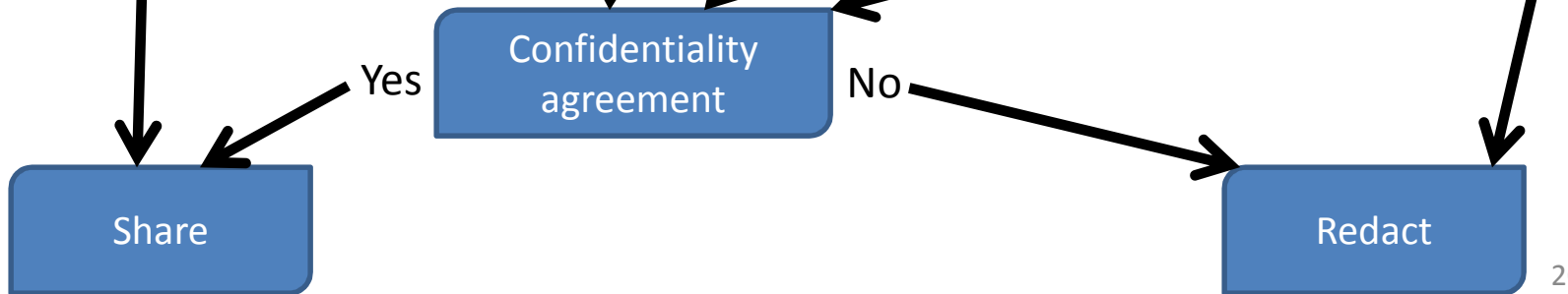
Recipients



Info



Action



USPAP

Ethics Rule – Confidentiality

USPAP 2016-2017 Ed. © The Appraisal Foundation

Confidential

1. Info provided by client:
 - A. Identified by client as confidential AND
 - B. Not available from any other source
2. Info classified as confidential by applicable law or regulation
3. Assignment results

Share

1. Client
2. Person authorized by client
3. Regulatory agency (Div. Real Estate)
4. Third parties authorized by due process of law
5. Peer review committee (Appraisal Board)

3rd Party Appraisal Scenario

Share

3rd Party
Appraiser



Assessor



Hearing
participants

May share with:

- Client
- Person authorized by client
- Regulatory or peer review committee
- Due process

Appraiser is liable through USPAP, *not assessor*

Must be authorized by client

OR

No client confidential & no results may be shared

Assessor is not liable through USPAP, *but commercial info law*

59-1-404(4)(b) “shall be disclosed” if obtained from an appraiser, real estate agent, property manager or other taxpayer who is not the subject taxpayer

Consider relationship with appraiser source

Property Tax Statutes and Rules

Specific Property Tax-Related Statutes and Rules

Confidential

1. Personal property audit results ([§59-2-705](#))
2. Motor vehicle title and registration records ([§41-1A-116](#))
3. Tax commission hearings ([R861-1A-12](#))
4. Tax commission notes and work papers ([R861-1A-12](#))
5. Commercial information ([R861-1A-37](#))