



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 8, 1998

Mr. Steve Stark
Life, Stark & Owen, P.C.
110 East Corsicana Street
Athens, Texas 75731

OR98-1617

Dear Mr. Stark:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116618.

The City of Murchison (the "city") received several open records requests for a variety of information, including information about water and sewer service provided by the city, and the accounts for this utility service. You contend that certain responsive records are confidential and may not be disclosed. It is our understanding that the only documents at issue concern the individual utility customer accounts. Because you do not ask about the other types of information requested, we assume that other responsive information has been provided to the requestors. You also indicate that the city has already provided the requestors with other records concerning water and sewer service.

We note initially that the city timely submitted to this office several open records requests, but a requestor also provided this office copies of prior open records requests for this same information that date back to February of 1998. Section 552.301 of the Government Code provides that a governmental body which receives an open records request and considers the requested information to fall within an exception to disclosure, must submit a request for a decision to the attorney general within ten business days after receipt of the open records request. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

In this situation, you assert various concerns the city has about releasing the information at issue, including its interest in protecting privacy interests of utility customers and abiding by the provisions of section 182.052 of the Utilities Code. You also indicate that even if some of the account information is public, the city "has only one computer and it's program does not limit changes to the data and does not provide for printing of account information without disclosing all information." The representative sample of documents¹ you submitted to this office show (1) customer name, address, and telephone number, (2) water use, meter reading, and meter numbers, (3) type of service, including whether it is a residential or commercial customer and if the service is for both water and sewer, (3) financial information such as the amount due, penalty charges, and previous balances, and (4) whether the account is active or not.

We first address your concerns about privacy interests of utility customers. For information to be withheld from disclosure under a common-law right of privacy, the information must be (1) highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 611 (1992) at 1. Financial information relating to an individual is generally excepted from public disclosure under the common-law privacy test, except to the extent the information reflects a transaction between the individual and the government in a matter of public interest. Open Records Decision Nos. 600 (1992). As previously noted, the records at issue contain financial information such as the amount due, penalty charges, and previous balances. We note that information showing the amount of money owed to or billed by the governmental entity is of legitimate public interest, and thus is not protected from disclosure on the basis of common-law privacy. Further, addresses, and telephone numbers are not generally the type of information that is protected from disclosure by common-law privacy. Open Records Decision No. 455 (1987) (home addresses and home telephone numbers of private citizens not protected from disclosure).

Section 182.052(a) provides that a government operated utility may not, except in certain situations as provided in section 182.054, "disclose personal information in a customer's account record if the customer requests that the government operated utility keep the information confidential." It is our understanding that the section 182.054 exceptions are inapplicable here. Personal information is defined in section 182.051 as an individual's address, telephone number, and social security number. Section 182.052(b) provides that utility customers may request confidentiality in a form provided by the utility company, or by "any other written request for confidentiality." We agree that the addresses and telephone numbers of those customers who, prior to the date of this request, have requested

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

confidentiality pursuant to section 182.052(b) must be withheld from disclosure.² The remaining information must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116618

Enclosures: Submitted documents

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²We note that the submitted petition "protesting" release of information does not conform to the section 182.052 requirements for customer confidentiality.