OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

May 21, 2002

Mr. Brad Norton
Assistant City Attorney
City of Austin - Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR2002-2704

Dear Mr. Norton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 165190.

The City of Austin (the "city") received three requests from the same requestor for information regarding certain Austin Energy customers, including names, addresses, premise numbers, and account status. You claim that the requested information is excepted from disclosure under sections 552.101, 552.104, and 552.133 of the Government Code. We have considered the exceptions you claim.

This office recently issued Open Records Letter No. 2001-5582 (2001), which serves as a previous determination under section 552.301(a) of the Government Code for the city with respect to Austin Energy customers' names, current addresses, former addresses, forwarding addresses, work addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, spouse information, roommate information, employer information, dates of service, electric bills, billing history, and information on whether an individual is a subscriber, whether an individual's service is active, and customer information from the "CIS Non-confidential Update List. Therefore, pursuant to that previous determination, you must withhold the requested information under section 552.133 of the Government Code. Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold

information in response to future requests). Further, in the future, the city need not seek a decision from this office with respect any such requested information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/sdk

Ref: ID# 165190

Enc: Submitted documents

c: Mr. Steven A. Fleckman
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