



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

March 26, 2003

Mr. Leonard V. Schneider
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2003-2053

Dear Mr. Schneider:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178441.

The City of Rosenberg (the "city"), which you represent, received a written request for "Info on unit #9 – Water Info for Judge Geick's court." The requestor subsequently clarified that she was seeking the city's water utility records for a particular address. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request). You state that you have released to the requestor two "Confidentiality Notices" contained in the utility records. You contend that portions of the remaining requested documents are excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

Under section 552.101 of the Government Code, the city is required to withhold "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses information made confidential by statutory law. Section 182.052(a) of the Utility Code provides that, with certain exceptions not applicable here,¹ a government-operated utility must withhold from the public "personal information" contained in a utility customer's account records, if the utility customer has requested that the information be kept confidential. Section 182.051(4) of the Utility Code defines "personal information" as "an individual's address, telephone number, or social security number." Accordingly, these three categories of information are the only types of information that the city is authorized to withhold under section 182.052(a) regarding an "individual." All other information contained in the requested records that relates to an individual must be released to the requestors.

¹*See* Util. Code § 182.054.

You have submitted to this office the water utility records for the referenced address as well as two “Confidentiality Notices” executed by a current and former resident of the address requesting confidentiality for the respective residents’ personal information. Because the “Confidentiality Notices” were executed prior to the date that the city received the current request for information, we conclude that the city must withhold the residents’ address from the submitted records pursuant to section 552.101 of the Government Code in conjunction with section 182.051 of the Utilities Code. However, because section 182.051 does not make confidential any other information contained in the submitted records, the city must release all of the remaining information in the utility records to the requestor, with the following exception.

We note that the submitted water bills contain account numbers. Section 552.136 of the Government Code makes certain account numbers confidential and provides in relevant part:

(a) In this section, “access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov’t Code § 552.136. We therefore conclude that the city must withhold the account numbers in the submitted records, which we have marked, pursuant to section 552.136 of the Government Code.

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).

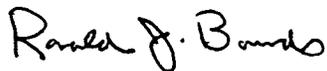
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Dep't of Pub. 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/RWP/seg

Ref: ID# 178441

Enc: Submitted documents

c: Ms. Karen Nettles
10832 Warwana Road
Houston, Texas 77043
(w/o enclosures)