



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 1, 2005

Ms. Danna Welter
City Secretary
City of Huntsville
1212 Avenue M
Huntsville, Texas 77340-4608

OR2005-04782

Dear Ms. Weller:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 225276.

The City of Huntsville (the "city") received a request for nine categories of information, including utility records for (1) all occupants at a specified address from May 1, 2004 to January 20, 2005, and (2) a named individual from May 1, 2004 to March 10, 2005. You state that you have released most of the requested information. You claim, however, that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that the submitted information contains Internet Protocol ("IP") addresses. In Open Records Decision No. 581 (1990), this office determined that certain computer information such as source codes, documentation information, and other computer programming that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information that is made public under section 552.021 of the Act. Open Records Decision No. 581 (1990) (construing predecessor statute). The IP addresses at issue here function solely as a tool to maintain, manipulate, or protect public property and has no independent relevance. *Id.* at 6. An IP address is the type of information that was at issue in Open Records Decision No. 581. As such, this information is not public information as defined by section 552.002 of the

Government Code, and therefore is not subject to the Act. Thus, the IP addresses we have marked need not be released in response to this request.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides in relevant part:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer’s account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer’s volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). We note that the names of customers are not included in the definition of personal information, and therefore are not confidential under section 182.052 of the Utilities Code. Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See id.* § 182.054.

The submitted information consists of utility records that contain the addresses and telephone number of individual utility customers, as well as billing information relating to the amounts billed to or collected from these customers for utility usage. You indicate that the customers at issue have timely elected to keep their public utility information confidential under section 182.052(a) of the Utilities Code. None of the exceptions in section 182.054 appear to apply to the submitted information. However, section 182.052(a) provides that the utility may disclose a customer’s billing information, notwithstanding the customer’s request for confidentiality, if the primary source of water for such utility is a sole-source designated aquifer. We are unable to determine from the information provided whether the primary source of water for the city’s utility is a sole-source designated aquifer. Therefore, if the primary source of water for the city utility is not a sole-source designated aquifer, the customers’ addresses, telephone number, and corresponding billing information are

confidential under section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code on that basis. *See* Open Records Decision No. 625 (1994) (construing statutory predecessor). If, however, the primary source of water is a sole-source aquifer, the city has the discretion to release the billing information, notwithstanding the customers' timely requests for confidentiality. Except for the marked IP addresses, which are not subject to the Act, the city must release the remaining 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,



Caroline E. Cho
Assistant Attorney General
Open Records Division

CEC/sdk

Ref: ID# 225276

Enc. Submitted documents

c: Mr. Karl Davidson
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(w/o enclosures)