



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 20, 2005

Mr. Frank J. Garza  
Davidson & Troilo  
7550 West IH-10, Suite 800  
San Antonio, Texas 78229-5815

OR2005-11469

Dear Mr. Garza:

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# 238562.

The Brownsville Public Utility Board (the "board"), which you represent, received a request for a certain individual's current address. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and have reviewed the information you submitted.<sup>2</sup>

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 182.052 of the Utilities Code, which provides in 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

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<sup>1</sup>Because the named individual's address is the only information to which the requestor seeks access, this decision does not address the public availability of any of the remaining information that you have submitted.

<sup>2</sup>This letter ruling assumes that the submitted "sampling of the requested information" is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the board to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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.

Util. Code § 182.052(a). "Personal information" under section 182.052(a) means an individual's address, telephone number, or social security number. *Id.* § 182.051(4). Section 182.054 of the Utilities Code provides six exceptions to section 182.052(a)'s disclosure prohibition. *See id.* § 182.054. You inform us that the requestor does not fall under any of the exceptions specified by section 182.054.

You also state that "[s]ince [the board] has customers that have requested confidentiality, it has been the practice and policy of [the board] not to release customer information in accordance with the Texas Utilities Code." You do not state, however, whether the individual to whom the submitted information pertains requested confidentiality for her personal information before the board received the present request for information. *See* Open Records Decision No. 625 at 7 (utility billing information must be released unless customer requests confidentiality before governmental body receives request for information). Consequently, we must rule in the alternative. Thus, if this particular individual requested confidentiality for her address prior to the board's receipt of this request for information, then the board must withhold her address under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. But if this individual did not request confidentiality prior to the board's receipt of this request for information, then her address may not be withheld under section 552.101 in conjunction with section 182.052 and must be released.

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

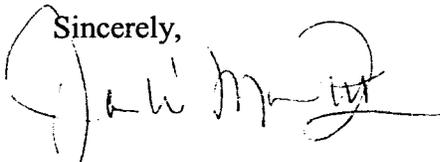
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to 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); *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 Office of the Attorney General 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. 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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/segh

Ref: ID# 238562

Enc: Submitted documents

c: Mr. David Owen  
c/o Mr. Frank J. Garza  
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