ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2006

Mr. Nathan C. Barrow
Assistant City Attorney
City of Fort Worth
Office of the City Attorney
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2006-01309

Dear Mr. Barrow:

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# 242019.

The Fort Worth Water Department (the "department") received a request for the last known address or telephone information for a named individual. We understand that the department does not maintain a telephone number for the named individual.[1] However, you inform us that the department does maintain an address on the named individual, but you claim this information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 as follows:

[1]The Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986).

> (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. . . .
>
> (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). 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 the following six exceptions to the disclosure prohibition found in section 182.052:

> This subchapter does not prohibit a government-operated utility from disclosing personal information in a customer's account record to:
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> (1) an official or employee of the state, a political subdivision of the state, or the United States acting in an official capacity;
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> (2) an employee of a utility acting in connection with the employee's duties;
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> (3) a consumer reporting agency;
>
> (4) a contractor or subcontractor approved by and providing services to the utility, the state, a political subdivision of the state, or the United States;
>
> (5) a person for whom the customer has contractually waived confidentiality for personal information; or
>
> (6) another entity that provides water, wastewater, sewer, gas, garbage, electricity, or drainage service for compensation.

Id. § 182.054. The information at issue consists of the address that the department maintains for the named individual's water service account. You inform us, and provide information showing, that the named individual timely elected to keep his public utility information confidential under section 182.052(a) of the Utilities Code. Thus, this information is

confidential under section 182.052 and must be withheld under section 552.101 unless one of the exceptions in section 182.054 applies. The requestor here is an employee of the Pinellas County, Florida Sheriff's Office who is seeking this information in an attempt to locate the named individual in connection with that office's law enforcement duties. We note that section 182.054(1) provides that the department is not prohibited from disclosing information in a customer account to "an official or employee of [Texas], a political subdivision of [Texas], or the United States acting in an official capacity[.]" *Id.* § 182.054(1). However, this requestor is not an official or employee of the State of Texas or of the United States, but rather is an employee of a Florida law enforcement agency. Otherwise, it appears that none of the other exceptions in section 182.054 applies to the submitted information. We therefore conclude that the department must withhold the submitted address pursuant to section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities 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 ten 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).

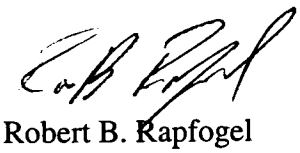
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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 ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/krl

Ref: ID# 242019

Enc. Submitted documents

c: Ms. Vicki Reuter
Diligent Search Analyst
Pinellas County Sheriff's Office
Child Protective Investigation Division
P. O. Box Drawer 2500
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(w/o enclosures)