



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2006

Ms. Bonnie Lee Goldstein
P. O. Box 140940
Dallas, Texas 75214-0940

OR2006-06023

Dear Ms. Goldstein:

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# 251625.

The City of Princeton (the "city"), which you represent, received a request for the forwarding address for the former resident at a specified address. You explain the submitted city utility customer account record contains information responsive to the request.¹ You claim that the submitted 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.

Initially, we note that the submitted information, with the exception of the requested address, is not responsive to the instant request. Information that is not responsive to this request need not be released. Moreover, we do not address such information in this ruling.

Section 552.101 of the Government Code 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:

¹ A governmental body must make a good faith effort to relate a request to information it holds. Open Records Decision Nos. 561 (1990), 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information).

(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).

The submitted utility account record contains the forwarding address at issue. You do not state, however, that the individual to whom the submitted information pertains requested confidentiality for his personal information before the city 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. If this particular individual requested confidentiality for his address prior to the city's receipt of this request for information, then the city must withhold his 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 city's receipt of this request for information, then his address may not be withheld under section 552.101 in conjunction with section 182.052.

However, you claim the address at issue may also be protected by the doctrine of common law privacy which is also encompassed by section 552.101. Common law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683. This office has long held that names and home addresses are not ordinarily intimate and embarrassing, and are therefore generally not confidential under common law privacy. *See* Open Records Decision Nos. 480 at 7 (1987), 455 at 7, 8 (1987), 169 at 6 (1977). Accordingly, we find that the forwarding

address at issue is not confidential under common law privacy as encompassed by section 552.101. Therefore, the city must release the requested address unless it must be withheld under 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 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,

A handwritten signature in black ink, appearing to read "Ramsey A. Abarca". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 251625

Enc. Submitted documents

c: Ms. Cindy Reed
202 Island Way
Princeton, Texas 75407
(w/o enclosures)