



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 25, 2009

Ms. Kimberly R. Lafferty
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2009-02493

Dear Ms. Lafferty:

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# 338248.

The City of The Colony (the "city") received a request for: (1) records of all checks that are outstanding and considered un-cashed or stale-dated, including payee/payor name, amount, date issued, warrant/check number, and last known address for payee, and (2) records of active or open cash sureties or securities that have been deposited with the city and not returned to the depositor. You state that the city does not maintain any information responsive to item (2) and that the maintained information responsive to item (1) does not contain payees' addresses.¹ You claim that the information responsive to item (1) is excepted from disclosure under section 552.101 of the Government Code. We have

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.--San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983). Likewise, a governmental body is not required to produce the responsive information in the format requested, a list, or create new information to respond to the request for information. *See AT&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex.1995); *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681(Tex. App.--Eastland, pet. denied); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3, 342 at 3 (1982), 87 (1975).

considered the exception you claim and reviewed the submitted representative sample of the responsive information.²

Section 552.101 of the Government Code exempts from 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 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, but does not include the individual's name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052, none of which are applicable in this instance. *See id.* § 182.054.

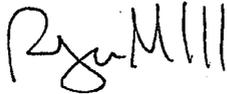
The submitted information consists of a list of names, check numbers, and check amounts associated with outstanding refunds or credits issued by the city. This information does not consist of "personal information" in the account record of a customer of a government-operated utility, nor information relating to the volume or units of utility usage or the amounts billed to or collected from individuals for utility usage. Accordingly, this information is not confidential under section 182.052 of the Utility Code. As you raise no further exceptions against disclosure, we conclude that the city must release the information at issue to the requestor.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/eb

Ref: ID# 338248

Enc. Submitted documents

cc: Requestor
(w/o enclosures)