



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 4, 2009

Mr. Christopher Gregg
Gregg & Gregg
16055 Space Center Boulevard
Houston, Texas 77062

OR2009-02822

Dear Mr. Gregg:

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# 336207.

The City of League City (the "city"), which you represent, received a request for all records of outstanding checks that have not escheated to the State Treasurer or the Unclaimed Property Division, and all records of active and open deposits that have not been returned to the depositor. You claim 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.¹

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 the following:

- (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

¹To the extent any additional responsive information existed on the date the city received this request, we assume the city has released it. If the city has not released any such records, it must do so at this time. See Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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) of the Utilities Code means an individual's address, telephone number, and social security number. *Id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Section 182.052 protects the personal information of natural persons only and not of artificial entities such as corporations, partnerships, or other business associations. *Id.* at 3-4. We note that a post office box number is not an address for purposes of section 182.052. 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.

You state that the customers whose information is at issue timely requested confidentiality for their personal information under section 182.052. You do not indicate that any of the exceptions to confidentiality under section 182.054 apply in this instance. Therefore, the customers' addresses, which we have marked, are confidential under section 182.052 and must be withheld under section 552.101 of the Government Code.

You state that portions of the remaining information at issue are confidential under common-law privacy. Section 552.101 also encompasses common-law privacy and excepts from disclosure private facts about an individual. *See Indus. Found.*, 540 S.W.2d 668. Information is excepted from required public disclosure by a common-law right of privacy if the information (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Id.* at 685. We note that common-law privacy protects the privacy interests of individuals, but not of corporations or other types of business organizations. *See* Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests); *see also U. S. v. Morton Salt Co.*, 338 U.S. 632, 652 (1950); *Rosen v. Matthews Constr. Co.*, 777 S.W.2d 434 (Tex. App.—Houston [14th Dist.] 1989), *rev'd on other grounds*, 796 S.W.2d 692 (Tex. 1990) (corporation has no right to privacy). In this instance, some of the remaining information at issue pertains to businesses and not to an individual. In addition, this office has found the names, addresses,

and telephone numbers of members of the public are not excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (the home addresses and telephone numbers of private citizens are generally not protected under the Act's privacy exceptions). Accordingly, we find that the remaining information is not protected under the doctrine of common-law privacy. Therefore, the city may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy.

However, we note that some of the unclaimed property is described as "payroll". The personal information of the respective claimants may be subject to section 552.117 of the Government Code.² Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The city may only withhold information under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Thus, if the individuals at issue timely elected to keep their personal information confidential, the city must withhold the information we have marked pursuant to section 552.117(a)(1) of the Government Code. The city may not withhold the information we have marked under section 552.117(a)(1) if the individuals at issue did not make a timely election to keep their personal information confidential.

In summary, (1) the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code; and (2) if the individuals at issue timely elected to keep their personal information confidential, the city must withhold the information we have marked pursuant to section 552.117(a)(1) of the Government Code. The remaining information must be released.

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,

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in cursive script that reads "Chris Sterner".

Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 336207

Enc. Submitted documents

c: Requestor
(w/o enclosures)