



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 24, 2009

Ms. Cara Leahy White
Taylor, Olson, Adkins, Sralla, & Elam
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2009-11851

Dear Ms. White:

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# 353362.

The City of Southlake (the "city"), which you represent, received a request for information pertaining to the customer information for utilities services at a specified address. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 exception encompasses information that other statutes make confidential, such as 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 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). We note that a post office box number is not an address for the purposes of section 182.052. You do not indicate that any of the exceptions to confidentiality under section 182.054 apply in this instance. We understand that the primary source of water for the city's utility services is not a sole-source designated aquifer. You assert that the submitted "Utility Service Request Form" is confidential in its entirety under section 182.052. However, as discussed above, the "personal information" protected under section 182.052 only excepts certain information from disclosure. Upon review, we find the city may withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.¹ However, the remaining information that you seek to withhold does not consist of personal information in a customer's account record, nor information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage; this information is not confidential under section 182.052, and the city may not withhold any portion of it under section 552.101 on that basis.

Next, you claim a portion of the remaining information is excepted from disclosure under section 552.130 of the Government Code, which excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Accordingly, the city must withhold the submitted Texas driver's license information we have marked under section 552.130 of the Government Code.

We note a portion of the remaining information is excepted from disclosure under section 552.136 of the Government Code, which provides that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."² *Id.*

¹As our ruling for this information is dispositive, we need not address your remaining argument against its disclosure.

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

§ 552.136. Accordingly, the city must withhold the customer account number we have marked under section 552.136 of the Government Code.

Lastly, you claim a portion of the remaining information is excepted from disclosure under section 552.137, which excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail address you have marked does not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that a member of the public has affirmatively consented to the release of the e-mail address at issue. Therefore, the city must withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure.

In summary, 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 Utility Code. The city must also withhold the information marked under section 552.130 and section 552.136 of the Government Code. Unless the owner of the e-mail address affirmatively consents to its disclosure, the city must withhold the e-mail address you have marked under section 552.137 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, 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,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/eeg

Ref: ID#353362

Enc. Submitted documents

c: Requestor
(w/o enclosures)