



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 6, 2009

Mr. Read Cook
Miller Mentzer, P.C.
Attorneys for Mountain Peak Special Utility District
2911 Turtle Creek, Suite 300
Dallas, Texas 75219

OR2009-14050

Dear Mr. Cook:

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# 358096.

The Mountain Peak Special Utility District (the "district"), which you represent, received a request for four categories of information pertaining to water leaks at a specified address. You claim 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.

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 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 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). We note that a customer's name is not included in the definition of personal information, and therefore is not confidential under section 182.052 of the Utilities Code. 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 information you have marked consists of the personal information of a customer who timely requested confidentiality under section 182.052. You do not indicate that any of the exceptions to confidentiality under section 182.054 apply in this instance. Based on your representations and our review of the submitted information, we agree that some of the information at issue is subject to section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code. However, as noted above, a customer's name is not personal information for purposes of section 182.052. Therefore, the district must withhold the information you have marked, except for the information we have marked for release, under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. We note that if the primary source of water for the district is a sole-source designated aquifer, the district has the discretion to release information relating to a customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage. *See* ORD 625.

We note the remaining information contains utility account numbers. Section 552.136(b) of the Government Code states "[n]otwithstanding any other provision of [the Act], 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."¹ Gov't Code § 552.136(b). An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *Id.* § 552.136(a). Therefore, the district must withhold the utility account numbers we have marked under section 552.136 of the Government Code.

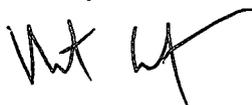
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the district must withhold the information you marked, except for the information we marked for release, under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The district must also withhold the information we marked under section 552.136 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, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/dls

Ref: ID# 358096

Enc. Submitted documents

c: Requestor
(w/o enclosures)