



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2009

Ms. Leticia Garza
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR2009-17913

Dear Ms. Garza:

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# 364663.

The City of Baytown (the "city") received a request for information contained in the water utility records relating to a specified address. You state the city has released some of the responsive information. 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.

Initially, we note the requestor has only asked for the names and mailing addresses from the water utility account for the current and previous owners at the specified address. Thus, the information you have submitted that does not pertain to the owners' names or addresses is not responsive as it does not fall within the scope of the request. The city does not need to release non-responsive information in response to this request, and this ruling will not address that 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:

(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). Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). "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.

You state that the current utility customer at the specified address has requested confidentiality for his account information in accordance with section 182.052. You state that none of the exceptions to confidentiality under section 182.054 apply in this instance. *See* Util. Code § 182.054. Therefore, the city must withhold the address we have marked in Exhibit D under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code to the extent that the customer at issue made a written request for the confidentiality of this information prior to the city's receipt of this request for information. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made). To the extent the customer at issue did not make a written confidentiality request prior to the city's receipt of this request, the city must release this information. Regardless of whether a request for confidentiality was made, the city must release the submitted customer's name.

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,

A handwritten signature in cursive script, appearing to read "Pam Wissemann".

Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 364663

Enc. Submitted documents

c: Requestor
(w/o enclosures)