



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 7, 2011

Mr. Randy A. Stonerod
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2011-04844

Dear Mr. Stonerod:

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# 413901.

The City of Temple (the "city") received a request for "a water list in the city of Temple of new connections only." You claim the requested information is 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 it appears some of the submitted information pertains to water customers who requested service after the city received the request for information. Thus, such information is not responsive to the request as it did not exist on the date the city received the request. Accordingly, we determine that, to the extent any of the submitted information was created after the city received the request, this information is not responsive and the city is not required to release it in response to the request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983). However, to the extent the submitted information existed when the city received the request, we address your argument against its disclosure.

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).¹ "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). Water, sewer, garbage collection, and electricity services are 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.

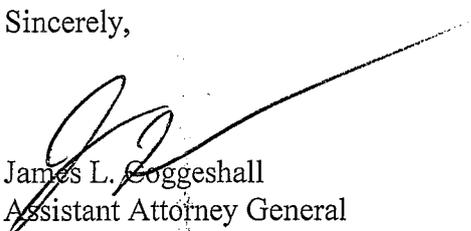
We have marked the personal information of customers who have requested their information be kept confidential. Accordingly, to the extent these customers made a written request for confidentiality prior to the city's receipt of the request for information, the city must withhold the personal information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. 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 these customers did not make a written confidentiality request prior to the city's receipt of this request, their personal information we have marked is not confidential under section 182.052, and the city may not withhold it under section 552.101 on that ground. The remaining billing information either does not consist of personal information, or it pertains to individuals you do not state requested confidentiality. Accordingly, we find you have not established the remaining information is confidential under section 182.052, and the city may not withhold it under section 552.101 on that ground. Thus, the city must release the remaining information to the requestor.

¹Section 182.051(3) of the Utilities Code defines a government-operated utility as "a governmental body or an entity governed by a governmental body that, for compensation, provides water, wastewater, sewer, gas, garbage, electricity, or drainage service." Util. Code § 182.051(3).

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 413901

Enc. Submitted documents

c: Requestor
(w/o enclosures)