



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2011

Mr. Jason D. King
Akers & Boulware-Wells, L.L.P.
Building E, Suite 102
6618 Sitio Del Rio Boulevard
Austin, Texas 78730

OR2011-15609

Dear Mr. King:

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# 434089.

The City of Bandera (the "city"), which you represent, received a request for the names, addresses, and amounts of water purchased for bulk water purchasers over a specified time period. 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 the requestor only requested names, addresses, and amounts purchased. Accordingly, to the extent the receipts you submitted contain other items of information, that information is not responsive to the request. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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, 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.

c) A government-operated utility shall include with a bill sent to each customer:

...

(3) a form by which the customer may request confidentiality by marking an appropriate box on the form and returning it to the government-operated utility.

Util. Code § 182.052(a)-(b), (c)(3). "Personal information" under section 182.052(a) is defined as "an individual's address, telephone number, or social security number," and does not include the individual's name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

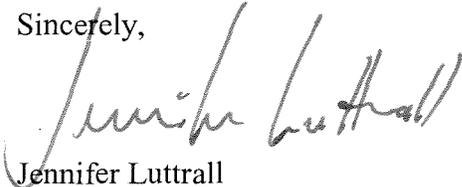
Section 182.052(b) provides the means by which a customer may request confidentiality for his or her personal information, certain utility usage information, and information relating to the amounts billed to or collected from the customer for utility usage. *See id.* § 182.052(a), (b). You state the customers whose information is at issue did not request confidentiality for their personal information or consumption and billing amounts prior to the date the city received the request for information. You also state the city failed to provide the confidentiality form required by section 182.052(c) to the bulk water users, and assert that because of the city's failure these customers were not given the opportunity to request confidentiality. We note section 182.052(b) provides a customer may request confidentiality using either a form provided pursuant to 182.52(c) or "any other written request for confidentiality." *See id.* § 182.052(b). Therefore, because the customers at issue did not request confidentiality for their personal information or consumption and billing amounts as provided by section 182.052(b), we find the city may not withhold the responsive information under section 552.101 of the Government Code on the basis of section 182.052(a) of the Utilities Code. *See* Open Records Decision No. 478 at 2 (1987)

(language of confidentiality statute controls scope of protection). As you claim no other exceptions to disclosure, the responsive 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 434089

Enc. Submitted documents

c: Requestor
(w/o enclosures)