



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2012

Mr. Albert D. Hammack
Town Attorney
Town of Highland Park
4700 Drexel Drive
Highland Park, Texas 75205

OR2012-02726

Dear Mr. Hammack:

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# 446486.

The Town of Highland Park (the "town") received a request for (1) the usage amounts for the top five irrigation consumers, including names and addresses of those who have not requested confidentiality and (2) names, addresses, and water usage of any commercial entities and individuals who have not requested confidentiality among the top 30 water users. You state you have released information responsive to the second portion of the request. You claim a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the requestor has excluded names and addresses of those customers who have requested confidentiality from part one of his request. Therefore, this information is not responsive to the instant request. This ruling does not address non-responsive information, and the town is not required to release it in response to the instant 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 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, but does not include the individual's name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable only to information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See* ORD 625 at 4-5 (in context of section 182.051(4) of the Utility Code, "individual" means only natural persons and does not include artificial entities). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See* Util. Code § 182.054.

In this instance, there is no indication that any of the exceptions listed in section 182.054 are applicable. You state the primary source of water for the town's utility services is not a sole-source designated aquifer. You inform us the individuals at issue timely requested confidentiality under section 182.052. However, we note the confidentiality forms provided for three of the five individuals at issue protect only "personal information." These forms do not provide for confidentiality of usage information. Accordingly, the usage information for these three individuals is not confidential under section 182.052 of the Utilities Code and may not be withheld under section 552.101 of the Government Code on that basis. As no additional exceptions to disclosure are raised, the consumption information for these three individuals must be released. Although you submit documentation showing the remaining two individuals requested confidentiality, you do not submit the form signed by these individuals. Accordingly, if the confidentiality forms signed by the remaining two individuals provided for the confidentiality of usage information, then the town must withhold those individuals' usage information under section 552.101 in conjunction with section 182.052 of the Utilities Code. However, if the confidentiality forms signed by the remaining two individuals did not provide for the confidentiality of usage information, then the town may not withhold those individuals' usage information under section 552.101 on

the basis of section 182.052 of the Utilities Code. In that case, as no additional exceptions to disclosure have been raised, the town must release the consumption information of the remaining two individuals.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eb

Ref: ID # 446486

Enc. Submitted documents

c: Requestor
(w/o enclosures)