



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 19, 2013

Mr. James McKechnie
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307-1431

OR2013-14441

Dear Mr. McKechnie:

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# 496836 (City ID# 292).

The City of Wichita Falls (the "city") received a request for a list of the large water users in the city as referenced by the city's public works director and mayor at a specified meeting. You inform us the city has released most of the requested information. You claim a portion of the submitted 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.

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. Section 552.101 encompasses information protected by other statutes, such as section 182.052 of the Utilities Code, which 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). Water service is included in the scope of utility services covered by section 182.052. *See* 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 represent the information you have marked consists of the personal information and utility usage of a residential utility customer who timely requested confidentiality under section 182.052. You do not indicate any of the exceptions to confidentiality under section 182.054 apply in this instance. You do not inform us whether the city's primary source of water is a sole-source designated aquifer. Accordingly, if the city's primary source of water is not a sole-source designated aquifer, then the city must withhold the utility usage of the customer at issue, which we have marked, under section 552.101 in conjunction with section 182.052. If the city's primary source of water is a sole-source designated aquifer, then the city has the discretion to release the information we have marked, notwithstanding the customer's request for confidentiality. The remaining information you have marked consists of the water use ranking and name of the customer whose information is at issue and does not constitute personal information, information relating to the volume or units of utility usage, or the amounts billed to or collected from an individual for utility usage. *See id.* § 182.051(4); *see also* ORD 625. Therefore, none of the remaining information is subject to section 182.052 and the city may not withhold it under section 552.101 on that basis. Thus, the city must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtm1, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'KLC', with a long horizontal stroke extending to the right.

Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 496836

Enc. Submitted documents

c: Requestor
(w/o enclosures)