



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2014

Mr. David V. Overcash
Wolfe, Tidwell & McCoy, LLP
2591 Dallas Parkway, Suite 205
Frisco, Texas 75034

OR2014-00140

Dear Mr. Overcash:

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# 509928 (ORR# C04006PIR20131004-01).

The City of Aubrey (the "city"), which you represent, received a request for the names, addresses, and telephone numbers for new residents of the city for a specified time period. You state the city has released some of the requested information. You claim portions of the submitted information are exempted from disclosure under sections 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor seeks only names, addresses, and telephone numbers of specified individuals for a specified time period. You have submitted documents that contain information beyond these specific pieces of information. You argue, and we agree, the portions of the submitted documents that do not consist of the requested names, addresses, and telephone numbers relating to the specified time period are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release that information in response to the request. Thus, we do not address your arguments against disclosure of the non-responsive information.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ 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). "Personal information" under section 182.052(a) means an individual's address and telephone 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). We note 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). Water is 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.

The submitted information consists of residential water applications and water utility billing records of new utility customers. You do not indicate any of the exceptions to confidentiality under section 182.054 apply in this instance. However, you do not indicate whether the customers at issue timely requested confidentiality for their personal 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). Thus, we must rule conditionally. To the extent the individual customers timely requested confidentiality for their personal information, the

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

city must withhold the responsive addresses and telephone numbers of the individual customers at issue under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. However, to the extent these individual customers did not request confidentiality for their personal information prior to the city's receipt of the request for information, the city may not withhold the addresses and telephone numbers of the customers at issue under section 552.101 in conjunction with section 182.052 of the Utilities Code, and they must be released. In either case, the remaining responsive information, consisting of names of the individual customers and responsive information pertaining to business entities, 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 509928

Enc. Submitted documents

c: Requestor
(w/o enclosures)