



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 5, 2014

Ms. Donna L. Johnson
Counsel for the City of Morgan's Point
Olson & Olson, LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2014-02182

Dear Ms. Johnson:

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# 513094 (Ref No. MPT13-005).

The City of Morgan's Point (the "city"), which you represent, received a request for the city's check registers over a specified period of time. You state you have released some information to the requestor. You state you will redact information pursuant to section 552.136 of the Government Code.¹ You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

¹Section 552.136 of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, access device numbers subject to section 552.136(b). *See* Gov't Code § 552.136(c); *see also id.* § 552.136(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.136(c) to attorney general and governmental body withholding information pursuant to section 552.136(c) must provide certain notice to requestor).

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code exempts 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 made confidential 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) includes an individual's address, telephone number, and 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). 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). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. Util. Code § 182.054. We understand none of the exceptions listed in section 182.054 are applicable to the information at issue.

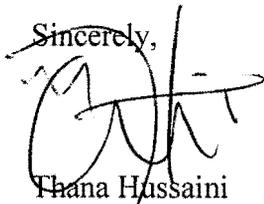
You state the information you have marked consists of personal information that is confidential under section 182.052 of the Utilities Code. However, we note you have not provided a confidentiality election form for the individuals whose information is at issue. Thus, we are unable to determine if these individuals timely requested confidentiality. Further, we are unable to determine whether the city's primary source of water is a sole-source designated aquifer. Accordingly, we must rule conditionally. If the primary source of water for the city is not a sole-source designated aquifer, then the city must withhold the water billing information we have marked if the individuals timely made a written request for confidentiality for that information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. Conversely, if the primary source of water for the city is a sole-source aquifer and the individuals timely

elected confidentiality for their water usage information, then the city has the discretion to release water usage information, notwithstanding the individual's request for confidentiality. In either circumstance, to the extent the individuals timely elected confidentiality for the information at issue under section 182.052, the city must withhold the individuals' water billing information, which we have marked, under section 552.101 in conjunction with section 182.052. However, if the individuals did not timely elect confidentiality for their water billing information, then the city may not withhold that information under section 552.101 in conjunction with section 182.052. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made). However, we find the remaining information does not constitute personal information for purposes of section 182.052 of the Utilities Code. Therefore, the remaining information at issue is not confidential under section 182.052 and may not be withheld under section 552.101 of the Government Code on that basis. The remaining 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.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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 513094

Enc. Submitted documents

c: Requestor
(w/o enclosures)